

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-NINTH DAY — WEDNESDAY, MAY 18, 2011

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

The roll of the house was called and a quorum was announced present (Record 1142).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent, Excused — Anderson, C.; Bohac; Harless.

The invocation was offered by Dr. M. L. Curry, pastor, New St. Paul Baptist Church, Dallas, as follows:

Almighty God, source of all authority and worth, of stability and good government, we pray that you guide our minds with your inspiration and further all our doings with your prevailing help. Persuade us to the keeping of your laws and the promotion of good in all that we enact here today. May each one truly put the good of those whom they represent before all party distinction or rivalry and before their own self-advancement or character. May our comments be appropriate, liberal, and constructive and our decisions fruitful, that this region may truly be a harmonious and happy witness to your goodness. Now, Lord, bless us all one by one and then collectively. In the name of our Lord and Savior. Amen.

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

LEAVES OF ABSENCE GRANTED

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

Bohac on motion of Patrick.

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

Harless on motion of Patrick.

The following member was granted leave of absence temporarily for today to attend a funeral:

C. Anderson on motion of Kleinschmidt.

CAPITOL PHYSICIAN

The speaker recognized Representative Workman who presented Dr. Love D. Paul of Austin as the "Doctor for the Day."

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

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Workman and by unanimous consent, the reading and referral of bills was postponed until just prior to final recess.

HCR 1 - ADOPTED

(by Hilderbran, Straus, T. King, and Raymond)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HCR 1**.

The motion prevailed.

The following resolution was laid before the house:

HCR 1, In memory of former Texas governor Dolph Briscoe, Jr.

HCR 1 was read and was unanimously adopted by a rising vote.

On motion of Representatives Raymond, Gallego, and T. King, the names of all the members of the house were added to **HCR 1** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative T. King who introduced family members of former Texas governor Dolph Briscoe, Jr.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the Committee on Redistricting:

Alonzo on motion of Patrick.

Alvarado on motion of Patrick.
Aycock on motion of Patrick.
Branch on motion of Patrick.
Eissler on motion of Patrick.
Geren on motion of Patrick.
Hilderbran on motion of Patrick.
Hunter on motion of Patrick.
Keffer on motion of Patrick.
Madden on motion of Patrick.
Peña on motion of Patrick.
Phillips on motion of Patrick.
Pickett on motion of Patrick.
Solomons on motion of Patrick.
Veasey on motion of Patrick.
Villarreal on motion of Patrick.

HR 1815 - ADOPTED
(by Gooden)

Representative Gooden moved to suspend all necessary rules to take up and consider at this time **HR 1815**.

The motion prevailed.

The following resolution was laid before the house:

HR 1815, Honoring Kinlie Johnson for her service to the Athens community.

HR 1815 was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Y. Davis who introduced members of the Dallas Black Chamber of Commerce Board of Directors.

HR 1735 - PREVIOUSLY ADOPTED
(by Y. Davis)

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

HR 1735, Honoring the members of the Dallas Black Chamber of Commerce Board of Directors for their exemplary public spirit.

On motion of Representatives Giddings and Johnson, the names of all the members of the house were added to **HR 1735** as signers thereof.

(Harper-Brown in the chair)

MESSAGE FROM THE SENATE

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

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 31).

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 5 ON THIRD READING
(Branch - House Sponsor)**

SB 5, A bill to be entitled An Act relating to the administration and business affairs of public institutions of higher education.

Representative Shelton moved to postpone consideration of **SB 5** until 1:59 p.m. today.

The motion prevailed.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 544 ON THIRD READING
(Shelton - House Sponsor)**

SB 544, A bill to be entitled An Act relating to unlawful acts against and criminal offenses involving the Medicaid program; providing penalties.

SB 544 was passed by (Record 1143): 129 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anchia; Anderson, R.; Beck; Berman; Bonnen; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter;

Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Anderson, C.; Bohac; Harless.

Absent, Excused, Committee Meeting — Alonzo; Alvarado; Aycock; Branch; Eissler; Geren; Hilderbran; Hunter; Keffer; Madden; Peña; Phillips; Pickett; Solomons; Veasey; Villarreal.

STATEMENT OF VOTE

When Record No. 1143 was taken, I was excused to attend a meeting of the Committee on Redistricting. I would have voted yes.

Madden

SB 688 ON THIRD READING

(Creighton, Gallego, Carter, Burkett, Coleman, et al. - House Sponsors)

SB 688, A bill to be entitled An Act relating to the investigation, prosecution, and punishment of criminal Medicaid fraud and certain other offenses related to Medicaid fraud; providing penalties.

SB 688 was passed by (Record 1144): 129 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anchia; Anderson, R.; Beck; Berman; Bonnen; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Anderson, C.; Bohac; Harless.

Absent, Excused, Committee Meeting — Alonzo; Alvarado; Aycock; Branch; Eissler; Geren; Hilderbran; Hunter; Keffer; Madden; Peña; Phillips; Pickett; Solomons; Veasey; Villarreal.

STATEMENT OF VOTE

When Record No. 1144 was taken, I was excused to attend a meeting of the Committee on Redistricting. I would have voted yes.

Madden

SB 1106 ON THIRD READING (Madden - House Sponsor)

SB 1106, A bill to be entitled An Act relating to the exchange of confidential information among certain governmental entities concerning certain juveniles.

Amendment No. 1

On behalf of Representative Madden, Representative V. Taylor offered the following amendment to **SB 1106**:

Amend **SB 1106** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 58.106(a), Family Code, is amended to read as follows:

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) to a juvenile justice agency;

(4) to the Texas Youth Commission and the Texas Juvenile Probation Commission for analytical purposes; ~~and~~

(5) to the office of independent ombudsman of the Texas Youth Commission; and

(6) to a county, justice, or municipal court exercising jurisdiction over a juvenile.

Amendment No. 1 was adopted.

SB 1106, as amended, was passed by (Record 1145): 128 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anchia; Anderson, R.; Beck; Berman; Bonnen; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender;

Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Anderson, C.; Bohac; Harless.

Absent, Excused, Committee Meeting — Alonzo; Alvarado; Aycock; Branch; Eissler; Geren; Hilderbran; Hunter; Keffer; Madden; Peña; Phillips; Pickett; Solomons; Veasey; Villarreal.

Absent — McClendon.

STATEMENTS OF VOTE

When Record No. 1145 was taken, I was excused to attend a meeting of the Committee on Redistricting. I would have voted yes.

Madden

When Record No. 1145 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

SB 683 ON THIRD READING (Bonnen - House Sponsor)

SB 683, A bill to be entitled An Act relating to the composition of the board of directors of the Gulf Coast Water Authority.

SB 683 was passed by (Record 1146): 124 Yeas, 2 Nays, 4 Present, not voting.

Yeas — Aliseda; Allen; Anchia; Anderson, R.; Beck; Berman; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Eiland; Taylor, L.

Present, not voting — Mr. Speaker; Creighton; Harper-Brown(C); Sheffield.

Absent, Excused — Anderson, C.; Bohac; Harless.

Absent, Excused, Committee Meeting — Alonzo; Alvarado; Aycock; Branch; Eissler; Geren; Hilderbran; Hunter; Keffer; Madden; Peña; Phillips; Pickett; Solomons; Veasey; Villarreal.

Absent — Burnam.

STATEMENT OF VOTE

When Record No. 1146 was taken, I was excused to attend a meeting of the Committee on Redistricting. I would have voted yes.

Madden

SB 652 ON THIRD READING (Bonnen - House Sponsor)

SB 652, A bill to be entitled An Act relating to governmental entities subject to the sunset review process.

SB 652 was passed by (Record 1147): 128 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anchia; Anderson, R.; Beck; Berman; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Anderson, C.; Bohac; Harless.

Absent, Excused, Committee Meeting — Alonzo; Alvarado; Aycock; Branch; Eissler; Geren; Hilderbran; Hunter; Keffer; Madden; Peña; Phillips; Pickett; Solomons; Veasey; Villarreal.

Absent — Burnam.

SB 1504 ON THIRD READING
(Lewis - House Sponsor)

SB 1504, A bill to be entitled An Act relating to the disposal of waste at the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility.

SB 1504 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BURNAM: Yesterday, Representative Geren offered an amendment that was suggested as a minor technical amendment, but in reviewing the amendment and the comments, I think there's some confusion created and I'd like for you to try to help clarify that. The distinction between—the license would need to be amended, but in fact it requires the license to be modified. Could you explain your understanding of the amendment? Would it be to amend the license or modify the license? That's substantially different because of the nuance of the TCEQ process.

REPRESENTATIVE LEWIS: Representative, I don't—that was Representative Geren's, or Chairman Geren's, amendment. I accepted that amendment, but as far as the nuances—exactly what that means in TCEQ parlance, I would not be able to speak to that, and I'm not advised.

BURNAM: Well, in fact, for clarification, and for legislative intent, would you say that the amendment itself may speak more clearly for legislative intent than the comments yesterday?

LEWIS: I can't speak for Chairman Geren on what his intention was in that amendment. It's my understanding that the amendment was meant to make sure that the TCEQ still played a role with regard to the—their rules, and the application which they had approved. They still have control of that and management over that decision.

BURNAM: Well, in fact, the amendment says, and I'm reading verbatim from the amendment, "The license holder may not accept any nonparty compact waste for disposal at the facility until the license has been modified," as opposed to amended, "by the commission to specifically authorize the disposal of nonparty compact waste." Would you agree, in fact, that that's what the amendment says?

LEWIS: Lon, I don't have it before me, but if you say that's what it says, I trust your reading of it.

BURNAM: May I offer you a copy of the amendment so we can clarify this?

LEWIS: Yes, I'm reading what you presented to me, which certainly appears to be a copy of the amendment that was adopted, and it adds the language, "The license holder may not accept any nonparty compact waste for disposal at the facility until the license has been modified by the commission to specifically authorize the disposal of nonparty compact waste." That's what it says.

BURNAM: So, for purposes of legislative intent—and you're a judge, you understand why that intent is important—the amendment itself would supersede comments from the floor yesterday?

LEWIS: I think when the courts look at our legislation, if they can determine the intent from the document, and it's clear from the document what was intended, that's what they go by, rather than comments of members. I don't know the extent to which, if it's not clear, the comments of the author or the testimony comes into that, but I think it's sometimes used to help interpretation.

BURNAM: So, we've all made mistakes as we speak, and I think that's what occurred yesterday.

REMARKS ORDERED PRINTED

Representative Burnam moved to print remarks between Representative Lewis and Representative Burnam.

The motion prevailed.

SB 1504 was passed by (Record 1148): 91 Yeas, 38 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, R.; Beck; Berman; Bonnen; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Eiland; Elkins; Fletcher; Flynn; Frullo; Garza; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harper-Brown(C); Hopson; Howard, C.; Huberty; Hughes; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Margo; Martinez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Pitts; Price; Quintanilla; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Anchia; Burnam; Carter; Castro; Coleman; Davis, Y.; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Isaac; Kolkhorst; Lucio; Mallory Caraway; Marquez; Martinez Fischer; McClendon; Menendez; Miles; Naishtat; Raymond; Reynolds; Riddle; Rodriguez; Simpson; Strama; Turner; Vo; Walle.

Present, not voting — Mr. Speaker.

Absent, Excused — Anderson, C.; Bohac; Harless.

Absent, Excused, Committee Meeting — Alonzo; Alvarado; Aycock; Branch; Eissler; Geren; Hilderbran; Hunter; Keffer; Madden; Peña; Phillips; Pickett; Solomons; Veasey; Villarreal.

Absent — Hartnett.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Pensions, Investments, and Financial Services, during lunch recess today, Desk 6, for a formal meeting, to consider **SB 1285** and **SB 1286**.

Criminal Jurisprudence, during lunch recess today, 3W.9, for a formal meeting, to consider **SB 578**, **SB 1843**, and pending business.

SCR 50 - ADOPTED
(Workman - House Sponsor)

Representative Workman moved to suspend all necessary rules to take up and consider at this time **SCR 50**.

The motion prevailed.

The following resolution was laid before the house:

SCR 50, Congratulating Bobby R. Inman for receiving the Joe M. Kilgore Award for Public Service.

SCR 50 was read and was adopted.

On motion of Representative Craddick, the names of all the members of the house were added to **SCR 50** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Workman who introduced Bobby R. Inman and his friends.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Agriculture and Livestock, during lunch recess today, Desk 25, for a formal meeting, to consider pending business.

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. 29).

COMMITTEE GRANTED PERMISSION TO MEET

Representative V. Gonzales requested permission for the Committee on Border and Intergovernmental Affairs to meet while the house is in session, at 2 p.m. today, in 3W.9, to consider **SB 1649**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Border and Intergovernmental Affairs, 2 p.m. today, 3W.9, for a formal meeting, to consider **SB 1649**.

RECESS

At 11:50 a.m., the chair announced that the house would stand recessed until 2 p.m. today.

AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Otto requested permission for the Committee on Ways and Means to meet while the house is in session, at 3 p.m. today, in 3W.15, to consider **SB 326, SB 422, SB 516, SB 597, SB 682, SB 915, SB 1070, SB 1120, SB 1130, SB 1185, SB 1404, SB 1413, SB 1441, and SJR 14.**

Permission to meet was granted.

FIVE-DAY POSTING RULE SUSPENDED

Representative Zerwas moved to suspend the five-day posting rule to allow the Committee on Public Health to consider **HR 1978, SB 270, and SB 1926** at 8 a.m. tomorrow in E2.030.

The motion prevailed.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Zerwas requested permission for the Committee on Public Health to meet while the house is in session, at 3 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

Representative Fletcher requested permission for the Committee on Homeland Security and Public Safety to meet while the house is in session, at 3:45 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Ways and Means, 3 p.m. today, 3W.15, for a formal meeting, to consider **SB 326, SB 422, SB 516, SB 597, SB 682, SB 915, SB 1070, SB 1120, SB 1130, SB 1185, SB 1404, SB 1413, SB 1441, and SJR 14.**

Homeland Security and Public Safety, 3:45 p.m. today, 3W.15, for a formal meeting, to consider pending business.

Public Health, 3 p.m. today, 3W.9, for a formal meeting, to consider pending business.

Public Health, 8 a.m. tomorrow, E2.030, for a public hearing, to consider **HR 1978, SB 270, SB 1926,** and unfinished business.

(Alonzo, C. Anderson, Aycock, Branch, Hunter, Madden, Peña, Pickett, and Villarreal now present)

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

Representative Thompson moved to suspend all necessary rules to set a local, consent, and resolutions calendar for 10 a.m. tomorrow.

The motion prevailed.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Thompson requested permission for the Committee on Local and Consent Calendars to meet while the house is in session, at 3:30 p.m. today, in 1W.14, to set a calendar.

Permission to meet was granted.

Representative Oliveira requested permission for the Committee on Land and Resource Management to meet while the house is in session, at 3:30 p.m. today, in 3N.4, to consider pending business.

Permission to meet was granted.

(Alvarado and Phillips now present)

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 2 and 3).

(Geren now present)

FIVE-DAY POSTING RULE SUSPENDED

Representative Alvarado moved to suspend the five-day posting rule to allow the Committee on Urban Affairs to consider **SB 649** and **SB 1234** at 3:30 p.m. today in 3N.4.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Urban Affairs, 3:30 p.m. today, 3N.4, for a formal meeting, to consider **SB 649** and **SB 1234**.

Local and Consent Calendars, 3:30 p.m. today, 1W.14, for a formal meeting, to set a calendar.

Land and Resource Management, 3:30 p.m. today, 3N.4, for a formal meeting, to consider pending business.

MAJOR STATE CALENDAR

SENATE BILLS

SECOND READING

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

CSSB 1811 ON SECOND READING

(Pitts - House Sponsor)

CSSB 1811, A bill to be entitled An Act relating to certain state fiscal matters; providing penalties.

Representative Pitts moved to postpone consideration of **CSSB 1811** until 8 a.m. tomorrow.

The motion prevailed.

CSSB 1581 ON SECOND READING
(Pitts - House Sponsor)

CSSB 1581, A bill to be entitled An Act relating to state fiscal matters, and certain public health and safety matters, related to public and higher education; providing penalties.

Representative Pitts moved to postpone consideration of **CSSB 1581** until 8 a.m. tomorrow.

The motion prevailed.

(Hilderbran, Keffer, and Solomons now present)

CSSB 23 ON SECOND READING
(Zerwas - House Sponsor)

CSSB 23, A bill to be entitled An Act relating to the administration of and efficiency, cost-saving, fraud prevention, and funding measures for certain health and human services and health benefits programs, including the medical assistance and child health plan programs.

Representative Zerwas moved to postpone consideration of **CSSB 23** until 8 a.m. tomorrow.

The motion prevailed.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 5 ON THIRD READING
(Branch - House Sponsor)

SB 5, A bill to be entitled An Act relating to the administration and business affairs of public institutions of higher education.

SB 5 was read third time earlier today and was postponed until this time.

Representative Branch moved to postpone consideration of **SB 5** until 7:59 a.m. tomorrow.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Cook requested permission for the Committee on State Affairs to meet while the house is in session, at 3:30 p.m. today, in 1W.14, to consider **SB 365**, **SB 855**, **SB 1068**, **SB 1069**, and pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

State Affairs, 3:30 p.m. today, 1W.14, for a formal meeting, to consider **SB 365**, **SB 855**, **SB 1068**, **SB 1069**, and pending business.

MAJOR STATE CALENDAR
(consideration continued)

SB 662 ON SECOND READING
(Anchia - House Sponsor)

SB 662, A bill to be entitled An Act relating to the continuation and functions of the State Board of Examiners for Speech-Language Pathology and Audiology; providing an administrative penalty.

SB 662 was passed to third reading.

SB 650 ON SECOND READING
(Cook - House Sponsor)

SB 650, A bill to be entitled An Act relating to management of certain metropolitan rapid transit authorities.

Amendment No. 1

Representative Rodriguez offered the following amendment to **SB 650**:

Amend **SB 650** (house committee printing) by adding the following appropriately numbered SECTIONS and renumbering the remaining SECTIONS as appropriate:

SECTION _____. Section 451.610, Transportation Code, is amended to read as follows:

Sec. 451.610. CONTINUATION OF SERVICES TO PERSONS WITH DISABILITIES. (a) An authority shall continue to provide transportation services for persons with disabilities in a withdrawn unit of election. The authority may not charge a fare for transportation services to persons with disabilities in the withdrawn unit that is more than the fare for those services for persons in the authority.

(b) An authority shall provide the same level of transportation services under Subsection (a) to persons with disabilities in a unit of election that withdrew from the authority before January 1, 2011, as those persons received on January 1, 2011. This subsection applies only to an authority to which Subchapter C-1 applies.

SECTION _____. Subchapter M, Chapter 451, Transportation Code, is amended by adding Section 451.6101 to read as follows:

Sec. 451.6101. CONTINUATION OF SERVICES TO PERSONS WITH DISABILITIES; ALTERNATIVE PROGRAM. (a) This section applies only to an authority to which Subchapter C-1 applies.

(b) Notwithstanding Section 451.610, an authority shall establish an alternative program to provide transportation services to persons with disabilities in a withdrawn unit of election who are eligible to receive services under the program. An authority shall require interested persons with disabilities to apply to be program participants. The program must be available to a person with a disability who:

(1) resides, at the time of application to the program, in a withdrawn unit of election;

(2) can prove, at the time of application, residence in the corporate limits of the withdrawn unit of election as those limits existed at the time of the withdrawal and continuous residence in the corporate limits of the withdrawn unit of election since withdrawal;

(3) meets eligibility criteria established by the authority for demand-responsive transportation service for persons with disabilities and can prove, at the time of application, that the person has had the same disability since the unit of election withdrew; and

(4) applies to the program before January 1, 2012.

(c) The program must:

(1) include only transportation services that meet the requirements of all applicable federal laws, rules, or regulations; and

(2) include transportation services between the residence of a program participant and a destination within the authority's service area or a destination within the withdrawn unit of election where the person with a disability resides that is:

(A) the participant's place of work or a place where the participant is seeking employment;

(B) a physician's office;

(C) a pharmacy;

(D) the participant's place of voting;

(E) a grocery store within five miles of the participant's residence or within the withdrawn unit of election; or

(F) a government building.

(d) Subsection (c)(1) does not expand the service area or add to the destinations in Subsection (c)(2).

(e) The requirement for transportation services to a grocery store under Subsection (c)(2)(E) is for services once per week. The requirement for transportation services to a government building under Subsection (c)(2)(F) is for services twice per week.

(f) A withdrawn unit of election must reimburse the authority for the costs of all services in the manner provided by Section 451.616 unless otherwise agreed to in a memorandum of understanding between the authority and the withdrawn unit of election.

(g) A withdrawn unit of election that does not provide transportation services to a program participant in the withdrawn unit of election through a third-party service provider shall provide the participant with use of the authority's transportation services. If a withdrawn unit of election chooses to have a third-party service provider provide services under this subsection, the authority may, with the withdrawn unit's consent:

(1) provide necessary dispatch services; and

(2) ensure the provider receives payment from the withdrawn unit of election.

(h) An individual may not receive transportation services under the program and subsequently receive transportation services under Section 451.610.

(i) A person who ceases to reside in the withdrawn unit of election may not continue as a program participant.

(j) This section and any program established under this section expire on January 1, 2020.

AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE SCHWERTNER: Representative Rodriguez, just a few questions as to the legislative intent of your amendment. Is it true that Section 451.610, Transportation Code, requires Cap Metro to continue providing door-to-door transportation services to people with disabilities who live in cities that voted to withdraw from Cap Metro?

REPRESENTATIVE RODRIGUEZ: Yes, that's correct, and it's my understanding that today, Capital Metro serves seven people under this requirement. The intention of the language I'm proposing, as a new section—new subsection, excuse me—451.610(b), is to make clear that for those seven existing customers, Cap Metro is required to continue providing each of those seven people the same level of service that that person received on January 1 of 2011, no more or no less.

SCHWERTNER: One final question—is it true that Section 451.610(g) allows a withdrawn city to use a third-party provider instead of Cap Metro to transport eligible citizens? I want to make sure that the withdrawn cities have the choice to use a third-party provider instead of Cap Metro if they want to. There are a lot of safe and reputable organizations that may be able to provide services more efficiently to these withdrawn cities, and those cities should be able to serve their citizens through a third-party provider, should they choose to.

RODRIGUEZ: Yes, your understanding of that subsection is correct. I completely agree with that, a withdrawn city should be able to use a third-party provider if they want to, and that's my intention with this legislation.

REMARKS ORDERED PRINTED

Representative Schwertner moved to print remarks between Representative Rodriguez and Representative Schwertner.

The motion prevailed.

Amendment No. 1 was adopted.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Gallego requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, at 4 p.m. today, in 3N.4, to consider pending business.

Permission to meet was granted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a committee meeting:

Laubenberg on motion of Sheets.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 4 p.m. today, 3N.4, for a formal meeting, to consider pending business.

SB 650 - (consideration continued)

Amendment No. 2

Representative Workman offered the following amendment to **SB 650**:

Amend **SB 650** (house committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 451.132(a)(5)(D), Transportation Code (page 2, line 4), strike "and".

(2) In SECTION 1 of the bill, in added Section 451.132(a)(5)(E), Transportation Code (page 2, line 5), between "tracking" and the period, insert:

;

(F) participation of historically underutilized businesses; and

(G) cost-benefit analyses

(3) In SECTION 1 of the bill, following added Section 451.132(d), Transportation Code (page 2, between lines 14 and 15), insert:

(e) The board may not adopt a plan for participation of historically underutilized businesses in capital improvement projects that require a quota or any similar requirement. The board may not conduct a capital improvement project in a way that has the effect of creating a quota for the participation of historically underutilized businesses.

(4) In SECTION 1 of the bill, following added Section 451.133(c), Transportation Code (page 2, between lines 23 and 24), insert:

(d) The board shall maintain, update, and post on the authority's Internet website accounting records for each authority account, including:

(1) the account's balance at the end of the fiscal year;

(2) deposits to the account;

(3) account expenditures; and

(4) interest income to the account.

(5) In SECTION 1 of the bill, in added Section 451.134(a), Transportation Code (page 2, line 27), strike "budgeted operating expenses for two months" and substitute "actual operating expenses for 90 days".

(6) In SECTION 1 of the bill, strike added Section 451.134(b), Transportation Code (page 3, lines 1-3), and substitute:

(b) The board shall adjust the amount held in the reserve account at least once annually based on the authority's actual operating reserves for the 12 months immediately preceding the adjustment.

(7) In SECTION 1 of the bill, in Section 451.137(c), Transportation Code (page 5, line 22), strike "two" and substitute "eight".

(8) In SECTION 1 of the bill, in Section 451.137(c), Transportation Code (page 5, line 24), strike "15" and substitute "60".

(9) In SECTION 3 of the bill (page 7, line 12), strike "September 1, 2016," and substitute "January 1, 2012".

(10) In SECTION 3 of the bill (page 7, line 15), between "account" and the period, insert ". The metropolitan rapid transit authority shall fully fund the account by December 31, 2014".

Amendment No. 2 was adopted.

SB 650, as amended, was passed to third reading. (C. Howard, Perry, and Zedler recorded voting no.)

**GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING**

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

**SB 430 ON SECOND READING
(Christian - House Sponsor)**

SB 430, A bill to be entitled An Act relating to written notice to a groundwater conservation district of groundwater contamination.

SB 430 was passed to third reading.

**SB 764 ON SECOND READING
(Ritter - House Sponsor)**

SB 764, A bill to be entitled An Act relating to a prohibition against use of school district resources for a hotel.

SB 764 was passed to third reading.

**SB 800 ON SECOND READING
(Elkins - House Sponsor)**

SB 800, A bill to be entitled An Act relating to the qualifications and operations of workers' compensation data collection agents.

SB 800 was passed to third reading.

RESOLUTIONS CALENDAR

The chair laid before the house the following resolutions on committee report:

**HCR 129
(by Patrick, Torres, and Legler)**

HCR 129, Notifying the U.S. Department of Education that certain career schools or colleges are legally authorized by the state of Texas to operate educational programs beyond secondary education.

HCR 129 was adopted by (Record 1149): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.;

Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Harless; Laubenberg.

Absent, Excused, Committee Meeting — Eissler; Veasey.

Absent — Johnson; Lyne.

HCR 50

(by Creighton, L. Taylor, L. Gonzales, Bonnen, Hilderbran, et al.)

HCR 50, Affirming the pride of all Texans in both our one and indivisible national union and our one and indivisible state, claiming sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the U.S. Constitution, serving notice to the federal government to cease and desist from certain mandates, and providing that certain federal legislation be prohibited or repealed.

(Veasey now present)

Amendment No. 1

Representative Veasey offered the following amendment to **HCR 50**:

Amend **HCR 50** on page 2, line 26, by striking "now, therefore, be it" and substituting the following:

and

WHEREAS, Although in our nation's history, the Tenth Amendment has been used to support and promote segregation, and references to "states' rights" have been understood by some as veiled references to segregation, that is not the intention here; and

WHEREAS, This resolution is not intended as a criticism of the current presidential administration; now, therefore, be it

(Eissler and Laubenberg now present)

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative Veasey offered the following amendment to **HCR 50**:

Amend **HCR 50** on page 2, line 26, by striking "now, therefore, be it" and substituting the following:

and

WHEREAS, Although in our nation's history, the Tenth Amendment has been used to support and promote segregation, and references to "states' rights" have been understood by some as veiled references to segregation, that is not the intention here; and

WHEREAS, This resolution is not intended as a criticism of any particular presidential administration; now, therefore, be it

Amendment No. 2 was adopted.

HCR 50 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **HCR 50** under Rule 4, Section 11(a) of the House Rules on the grounds that proper notice of the committee meeting was not given.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Eissler requested permission for the Committee on Public Education to meet while the house is in session, at 4:15 p.m. today, in 3N.4, to consider pending business.

Permission to meet was granted.

FIVE-DAY POSTING RULE SUSPENDED

Representative Eissler moved to suspend the five-day posting rule to allow the Committee on Public Education to consider **SB 346** at 8 a.m. tomorrow in E2.036.

The motion prevailed.

HCR 50 - (consideration continued)

The speaker overruled the point of order.

HCR 50 - POINT OF ORDER

Representative Martinez raised a point of order against further consideration of **HCR 50** under Rule 4, Section 20(a) and Rule 4, Section 18(b) of the House Rules on the grounds that the sworn statement of witnesses is incomplete and the committee minutes are incomplete.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Dutton requested permission for the Committee on Urban Affairs to meet while the house is in session, at 4:30 p.m. today, in 1W.14, to consider **SB 1234**.

Permission to meet was granted.

HCR 50 - (consideration continued)

The speaker overruled the point of order.

HCR 50, as amended, was adopted by (Record 1150): 102 Yeas, 44 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Naishtat; Oliveira; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Harless.

Absent — Pickett.

REASON FOR VOTE

This is the second session in a row that we have before us a resolution that combines inflammatory rhetoric with bad public policy. This resolution, which invokes the Tenth Amendment, undermines the integrity of this legislative body and stirs up reminders of our state's darker history. Indeed, we have a long history associated with invoking the Tenth Amendment, states' rights, nullification, and state sovereignty. But I don't think it is a history that anyone in this chamber should be proud of. It appears, however, that some are.

About 150 years ago, the conversation in this state was about state sovereignty, states' rights, and pushing back against an "overreaching federal government." Back then, Washington was trying to stop the people of this state from doing something they wanted to do: own slaves. Next, this state was once again in a battle with Washington over states' rights. Only this time, the state invoked its sovereignty to enact laws keeping blacks away from the voting booths and keep schools segregated. When Washington finally decided to stop this

state-sanctioned bigotry, people in this very chamber decried the "federal overreach" and claimed that laws like the Civil Rights Act and the Voting Rights Act were a violation of "states' rights".

Since this state's last big push-back against Washington during the Civil Rights movement, we haven't heard much about state sovereignty and states' rights. But last session, after the election of President Obama, members once again decided that this was a pressing issue. We didn't have these state sovereignty resolutions when we didn't have an African American president, and I don't think there is a person in this chamber naïve enough to think that it's just a coincidence. I want to make a few things clear. It was Washington, not Texas, that freed my ancestors from slavery. It was Washington, not Texas, that made sure that people like me wouldn't be turned away from the voting booth, and it was Washington, not Texas, that ensured that I can send my children to the same schools and universities as anyone else.

Not one time have I heard this house invoke states' rights or the Tenth Amendment to help those whom this rhetoric has been traditionally used to hurt. Instead, it continues to invoke states' rights to justify laws that disproportionately harm minorities and people of color. And frankly, sometimes it's difficult to believe that it is not doing it for that exact reason. I would like to believe that this house of representatives is better than this resolution. This may have been our past, but it doesn't have to be our present, and God forbid it is our future. I write on behalf of myself and all of those past and present who have been on the wrong side of this states' right to hurt and discriminate. This resolution is offensive, divisive, and completely contrary to what this country is about: one nation, under God, indivisible, with liberty and justice for all.

Coleman

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Education, 8 a.m. tomorrow, E2.036, for a public hearing, to consider **SB 346** and pending business.

Public Education, 4:15 p.m. today, 3N.4, for a formal meeting, to consider pending business.

Urban Affairs, 4:30 p.m. today, 1W.14, for a formal meeting, to consider **SB 1234**.

HCR 66

(by **Hancock, et al.**)

HCR 66, Urging the United States Congress to prevent the Environmental Protection Agency from regulating greenhouse gases for stationary sources.

Representative Hancock moved to postpone consideration of **HCR 66** until 9 a.m. Friday, May 20.

The motion prevailed.

CSHCR 21
(by Gallego)

CSHCR 21, Urging Congress to reauthorize the Water Resources Development Act of 2007, Section 5056, and to appropriate sufficient funds so that efforts to solve the salt problem in the Amistad International Reservoir can continue.

Representative Gallego moved to postpone consideration of **CSHCR 21** until 7:30 a.m. tomorrow.

The motion prevailed.

HCR 60
(by Burkett, Flynn, Brown, Paxton, et al.)

HCR 60, Urging Congress to propose and submit to the states for ratification the Parental Rights Amendment to the U.S. Constitution.

HCR 60 was adopted by (Record 1151): 123 Yeas, 21 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Dukes; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Martinez; Martinez Fischer; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alvarado; Anchia; Davis, Y.; Deshotel; Dutton; Farias; Farrar; Giddings; Gonzalez; Howard, D.; Mallory Caraway; Marquez; McClendon; Miles; Naishtat; Oliveira; Rodriguez; Strama; Thompson; Turner; Walle.

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

Absent, Excused — Bohac; Harless.

Absent — Alonzo; Coleman.

HCR 87
(by Veasey and Naishtat)

HCR 87, Urging Congress to expand the Healthy Incentives Pilot for Supplemental Nutrition Assistance Program recipients to communities across the country.

(S. King in the chair)

HCR 87 failed of adoption by (Record 1152): 54 Yeas, 91 Nays, 2 Present, not voting.

Yeas — Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Cook; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Hunter; Isaac; Johnson; King, T.; Kolkhorst; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Vo; Walle.

Nays — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Jackson; Keffer; King, P.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Bohac; Harless.

Absent — Villarreal.

STATEMENT OF VOTE

I was shown voting no on Record No. 1152. I intended to vote yes.

Allen

CSHCR 94

(by Flynn, Keffer, Creighton, Chisum, et al.)

CSHCR 94, Urging Congress to repeal the Dodd-Frank Wall Street Reform and Consumer Protection Act.

CSHCR 94 was adopted by (Record 1153): 101 Yeas, 44 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Oliveira; Orr; Otto; Parker;

Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Bohac; Harless.

Absent — Pickett.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1153. I intended to vote no.

Guillen

(Lozano in the chair)

HB 1840 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1840, A bill to be entitled An Act relating to the creation and functions of the Texas Grain Producer Indemnity Board.

Representative Phillips moved to concur in the senate amendments to **HB 1840**.

The motion to concur in the senate amendments to **HB 1840** prevailed by (Record 1154): 144 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett;

Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Christian; White.

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

Absent, Excused — Bohac; Harless.

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

Amend **HB 1840** (senate committee printing) in SECTION 3 of the bill as follows:

(1) Strike added Sections 41.204(a)(2)(A) through (D), Agriculture Code (page 2, lines 24-32), and substitute the following:

(A) one representative of the Texas Agricultural Cooperative Council or its successor organization;

(B) one representative of the Texas Grain & Feed Association or its successor organization;

(C) one representative of the non-warehouse grain-buying industry;
and

(D) one member with expertise in production agriculture financing.

(2) In added Section 41.205, Agriculture Code (page 2, line 45), between "BOARD." and "The board", insert "(a)".

(3) In added Section 41.205, Agriculture Code (page 2, line 46), strike "once each year" and substitute "quarterly".

(4) After added Section 41.205, Agriculture Code (page 2, between lines 55 and 56), insert the following:

(b) Notwithstanding Chapter 551, Government Code, the board may hold an open or closed meeting by telephone conference call or video conference if:

(1) immediate action or a quarterly meeting is required; and

(2) the location at which a quorum of the board convenes is inconvenient for any member of the board.

(c) A meeting under Subsection (b) is subject to the notice requirements of Chapter 551, Government Code.

(d) Notice of a meeting under Subsection (b) must specify that the location at which meetings of the board are usually held is the location of the meeting.

(e) Each part of an open meeting under Subsection (b) shall be conducted in a manner that is audible to the public at the location specified in the notice of the meeting. The board shall ensure that each open meeting is tape recorded and that the tape recording is made available to the public after the meeting.

(5) After added Section 41.206(c), Agriculture Code (page 2, between lines 68 and 69), insert the following:

(d) The board shall notify the grain producer of the manner by which the grain producer may initiate a claim under Section 41.208. The notice may be provided in a manner determined by the board.

(6) Strike added Section 41.208(b)(1), Agriculture Code (page 3, lines 30-31), and substitute the following:

(1) be initiated:

(A) not more than 60 days after the applicable claim initiation date;

or

(B) before a date determined by the board to be reasonable, if the board determines such a date; and

(7) After added Section 41.209(b), Agriculture Code (page 3, between lines 48 and 49), insert the following:

(c) The board shall make a determination under Subsection (a) within a reasonable period of time as established by the board.

(8) Strike added Section 41.209(e)(1), Agriculture Code (page 3, lines 65-66), and substitute the following:

(1) if the grain producer has failed to pay assessments for the current growing season under Section 41.206;

(9) After added Section 41.209(e), Agriculture Code (page 4, between lines 17 and 18), insert the following new subsection, appropriately lettered:

() Notwithstanding Subsection (f)(3), if the board determines that the documentation submitted in support of a grain producer's claim is incomplete, the board shall give the grain producer an opportunity to provide complete documentation.

(10) Reletter the subsections of added Section 41.209, Agriculture Code, and correct cross-references appropriately.

(11) In added Section 41.212(e), Agriculture Code (page 4, lines 56-57), strike "a simple majority of votes are cast in favor of the referendum", and substitute "the referendum meets the requirements of Section 41.031".

(12) In added Section 41.213(b), Agriculture Code (page 5, lines 10 and 11), strike "60" both places it appears and substitute "90".

HB 1146 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1146, A bill to be entitled An Act relating to the registration and regulation of appraisal management companies and the composition of the Texas Appraiser Licensing and Certification Board; providing penalties.

Representative Kuempel moved to concur in the senate amendments to **HB 1146**.

The motion to concur in the senate amendments to **HB 1146** prevailed by (Record 1155): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher;

Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Bohac; Harless.

Absent — Christian.

Senate Committee Substitute

CSHB 1146, A bill to be entitled An Act relating to the registration and regulation of appraisal management companies; providing penalties.

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

SECTION 1. Subchapter D, Chapter 1103, Occupations Code, is amended by adding Section 1103.157 to read as follows:

Sec. 1103.157. ADVISORY COMMITTEE. (a) The board shall establish an advisory committee to advise the board and make recommendations on matters related to the regulation of appraisal management companies under Chapter 1104.

(b) The advisory committee consists of the assistant presiding officer of the board and two persons appointed by the governor as follows:

(1) a controlling person of an appraisal management company registered under Chapter 1104; and

(2) a public member with recognized business ability.

(c) The assistant presiding officer of the board shall serve as the presiding officer of the advisory committee.

(d) The members of the advisory committee appointed by the governor serve staggered two-year terms, with the terms of the appraisal management company member and the public member expiring on January 31 of alternating years.

SECTION 2. Subtitle A, Title 7, Occupations Code, is amended by adding Chapter 1104 to read as follows:

CHAPTER 1104. APPRAISAL MANAGEMENT COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1104.001. SHORT TITLE. This chapter may be cited as the Texas Appraisal Management Company Registration and Regulation Act.

Sec. 1104.002. PURPOSE. The purpose of this chapter is to establish and enforce standards related to appraisal management services for appraisal reports on residential properties located in this state with fewer than five units.

Sec. 1104.003. DEFINITIONS. (a) The definitions in Section 1103.003 apply to this chapter.

(b) In this chapter:

(1) "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated in a securitization, an external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets that directly or indirectly performs appraisal management services.

(2) "Appraisal management service" means to directly or indirectly perform any of the following acts:

(A) administer an appraisal panel;

(B) recruit, retain, or select an appraiser;

(C) contract with an appraiser to perform an appraisal assignment;

(D) provide a completed appraisal performed by an appraiser to

one or more clients; or

(E) manage the process of having an appraisal performed,

including:

(i) receiving and assigning appraisal orders and reports;

(ii) tracking and determining the status of orders for appraisals;

(iii) conducting quality control of a completed appraisal before

delivery of the appraisal to the person who ordered the appraisal;

(iv) collecting fees from creditors and underwriters for services

provided; or

(v) reimbursing appraisers for services performed.

(3) "Appraisal panel" means a pool of licensed or certified appraisers who perform appraisals as independent contractors for an appraisal management company.

(4) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment. The term does not include an examination of an appraisal for grammatical, typographical, mathematical, or other similar administrative errors that do not involve the appraiser's professional judgment, including compliance with the elements of the client's statement of work.

(5) "Appraiser" means a person licensed or certified under Chapter 1103.

(6) "Controlling person" means:

(A) an owner, officer, or director of an appraisal management company;

(B) an individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and the authority to enter into agreements with appraisers for the performance of appraisals; or

(C) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(7) "Financial institution" means:

(A) a bank, savings bank, or savings and loan association or a subsidiary or affiliate of a bank, savings bank, or savings and loan association;

(B) a state or federal credit union or a subsidiary, affiliate, or credit union service organization of a state or federal credit union;

(C) an insurance company licensed or authorized to do business in this state under the Insurance Code;

(D) a mortgage banker registered under Chapter 157, Finance Code;

(E) a person licensed under Chapter 156, Finance Code;

(F) a lender licensed under Chapter 342, Finance Code;

(G) a farm credit system institution; or

(H) a political subdivision of this state conducting an affordable home ownership program.

(8) "Uniform Standards of Professional Appraisal Practice" means the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

Sec. 1104.004. EXEMPTIONS. (a) This chapter does not apply to:

(1) a person who exclusively employs appraisers on an employer and employee basis for the performance of appraisals;

(2) a person acting as an appraisal firm as defined by board rule that at all times during a calendar year employs on an exclusive basis as independent contractors not more than 15 appraisers for the performance of appraisals;

(3) a financial institution, including a department or unit within the institution, that is regulated by an agency of this state or the United States government;

(4) subject to Subsection (b), a person who enters into an agreement with an appraiser for the performance of an appraisal that on completion results in a report signed by both the appraiser who completed the appraisal and the appraiser who requested completion of the appraisal;

(5) an appraisal management company with an appraisal panel of not more than 15 appraisers at all times during a calendar year; or

(6) an appraisal management company that is a subsidiary owned and controlled by a financial institution that is subject to appraisal independence standards at least as stringent as those under Section 1104.203 or the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) through regulation by an agency of this state or the United States government.

(b) An appraisal management company may not require an employee of the appraisal management company who is an appraiser to sign an appraisal that is completed by another appraiser who contracts with the appraisal management company in order to avoid the requirements of this chapter.

[Sections 1104.005-1104.050 reserved for expansion]
SUBCHAPTER B. BOARD POWERS AND DUTIES

Sec. 1104.051. RULES. The board may adopt rules necessary to administer the provisions of this chapter.

Sec. 1104.052. FEES. (a) Subject to Subsection (b), the board by rule shall establish application, renewal, and other fees in amounts so that the sum of the fees paid by all appraisal management companies seeking registration under this chapter is sufficient for the administration of this chapter.

(b) The board shall collect from each appraisal management company registered under this chapter the national registry fee required by the appraisal subcommittee for each person who is on the appraisal panel of the company and licensed or certified as an appraiser in this state. The board shall deposit the registry fees to the credit of the appraiser registry account in the general revenue fund.

(c) The fees collected under Subsection (b) shall be sent to the appraisal subcommittee regularly as required by federal law.

[Sections 1104.053-1104.100 reserved for expansion]
SUBCHAPTER C. REGISTRATION REQUIREMENTS

Sec. 1104.101. REGISTRATION REQUIRED. Unless a person is registered under this chapter, a person may not:

(1) act or attempt to act as an appraisal management company;
(2) provide or attempt to provide appraisal management services; or
(3) advertise or represent or attempt to advertise or represent the person as an appraisal management company.

Sec. 1104.102. ELIGIBILITY FOR REGISTRATION; OWNERSHIP. (a) A person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state may not own in any manner more than one percent of an appraisal management company registered or applying for registration under this chapter unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.

(b) An entity more than 10 percent of which is owned by a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state may not own more than 10 percent of an appraisal management company registered or applying for registration under this chapter unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.

(c) A person owning more than 10 percent of an appraisal management company in this state must:

(1) be of good moral character, as determined by the board; and
(2) submit to a background investigation, as determined by the board.

(d) An appraisal management company applying for registration under this chapter shall certify to the board that:

(1) it has reviewed each entity that owns more than 10 percent of the company; and

(2) no entity reviewed under Subdivision (1) is more than 10 percent owned by a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation and who has not subsequently had a license or certificate to act as an appraiser granted or reinstated.

Sec. 1104.103. APPLICATION FOR REGISTRATION OR RENEWAL.

(a) An applicant for registration or registration renewal under this chapter must submit:

(1) an application on a form approved by the board; and

(2) the application or renewal fee established under Section 1104.052(a).

(b) The application must contain:

(1) the name, business address, and telephone contact information of the entity seeking registration;

(2) if the entity is not a corporation domiciled in this state, the name and contact information for the company's agent for service of process in this state;

(3) the name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns more than 10 percent of the appraisal management company;

(4) the name, address, and contact information for at least one controlling person;

(5) the designation of a primary contact under Section 1104.104;

(6) the name and contact information of at least one appraiser designated by the company to respond to and communicate with appraisers on the company's appraisal panel regarding appraisal assignments;

(7) a certification that the entity has a system in place to ensure compliance with Subchapter D and Section 129E of the Truth in Lending Act (15 U.S.C. Section 1601 et seq.);

(8) a written irrevocable consent to service of process; and

(9) any other information required by the board to approve the application.

(c) The board shall adopt rules regarding the renewal of a registration under this chapter.

Sec. 1104.104. DESIGNATION OF PRIMARY CONTACT. (a) An appraisal management company applying for registration under this chapter shall designate one controlling person as the primary contact for all communication between the board and the company.

(b) The controlling person designated under Subsection (a):

(1) must:

(A) be certified as an appraiser in at least one state at all times during the designation; or

(B) have completed:

(i) the 15-hour national Uniform Standards of Professional Appraisal Practice course; and

(ii) the seven-hour national Uniform Standards of Professional Appraisal Practice update course not more than two years before the renewal of the appraisal management company's registration;

(2) may not have had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated;

(3) must be of good moral character, as determined by the board; and

(4) shall submit to a background investigation, as determined by the board.

Sec. 1104.105. DENIAL OF REGISTRATION. (a) The board may deny a registration:

(1) to an applicant who fails to satisfy a requirement of this chapter; or

(2) on a determination by the board that:

(A) there is reasonable evidence that any person who owns more than 10 percent of the appraisal management company or any controlling person of the company has, within the 24 months preceding the date of the application, had a license or certification as an appraiser or a registration as an appraisal management company suspended, revoked, or put on probation in any state;

(B) the applicant has, while registered under this chapter, demonstrated incompetency, untrustworthiness, or conduct or practices that render the registrant unfit to perform appraisal management services; or

(C) the applicant no longer performs appraisal management services in good faith and is a source of detriment, injury, or loss to the public.

(b) The board shall immediately provide written notice to the applicant of the board's denial of a registration under this chapter.

(c) An appeal of the denial of a registration is governed by Chapter 2001, Government Code.

Sec. 1104.106. ISSUANCE AND PUBLICATION OF REGISTRATION NUMBER. The board shall:

(1) issue a unique registration number to each appraisal management company registered under this chapter; and

(2) publish annually a list of the companies registered under this chapter and the registration number of each company.

Sec. 1104.107. EXPIRATION OF REGISTRATION. Unless renewed, a registration issued under this chapter expires on the second anniversary of the date the registration is issued.

[Sections 1104.108-1104.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY APPRAISAL MANAGEMENT COMPANY

Sec. 1104.151. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED. (a) An appraisal management company registered under this chapter may not knowingly:

(1) employ a person in a position in which the person has the responsibility to order appraisals or to review completed appraisals if the person has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state;

(2) enter into any independent contractor arrangement for the provision of appraisals or appraisal management services with any person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state; or

(3) enter into any contract, agreement, or other business relationship for the provision of appraisals or appraisal management services with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state.

(b) An appraisal management company is not in violation of Subsection (a) if the person whose license or certification was denied, revoked, or surrendered in lieu of revocation has since that denial, revocation, or surrender had a license or certificate granted or reinstated and the person maintains the license or certificate in good standing.

Sec. 1104.152. VERIFICATION OF LICENSURE OR CERTIFICATION. An appraisal management company registered under this chapter must verify that an individual to whom the company is making an assignment for the completion of an appraisal:

(1) is licensed or certified under Chapter 1103; and

(2) has not had a license or certificate as an appraiser denied, revoked, or surrendered in lieu of revocation since the last time the company made an assignment for an appraisal to the appraiser.

Sec. 1104.153. APPRAISAL REVIEW. A person who performs an appraisal review for an appraisal management company must be licensed or certified under Chapter 1103 with at least the same certification for the property type as the appraiser who completed the report being reviewed.

Sec. 1104.154. COMPETENCY OF APPRAISERS. Before making an assignment to an appraiser, an appraisal management company must verify that the appraiser receiving the assignment satisfies each provision of the competency rule of the Uniform Standards of Professional Appraisal Practice for the appraisal being assigned.

Sec. 1104.155. PROFESSIONAL STANDARDS. An appraisal management company registered under this chapter shall on a periodic basis perform an appraisal review of the work of appraisers performing appraisal services for the company to ensure that the services comply with:

(1) the edition of the Uniform Standards of Professional Appraisal Practice in effect at the time of the appraisal; or

(2) other standards prescribed by board rule.

Sec. 1104.156. BUSINESS RECORDS. (a) An appraisal management company registered under this chapter or that has applied for registration under this chapter shall retain for at least five years all business records relating to each service request that the company receives and the appraiser who performs the appraisal for the company.

(b) The board may audit the records of an appraisal management company registered under this chapter to ensure compliance with this chapter, board rules, and the Uniform Standards of Professional Appraisal Practice.

(c) A written record of all substantive communications between an appraisal management company registered under this chapter and an appraiser relating to inclusion on an appraisal panel or to an appraisal assignment must be maintained as provided under Subsection (a).

Sec. 1104.157. COMPENSATION OF APPRAISERS. (a) An appraisal management company shall:

(1) except in cases of breach of contract or substandard performance of services, pay an appraiser for the completion of an appraisal or valuation assignment not later than the 60th day after the date the appraiser provides the completed appraisal or valuation assignment to the company or its assignee; and

(2) compensate appraisers at a rate that is reasonable and customary for appraisals being performed in the market area of the property being appraised consistent with the presumptions under federal law.

(b) An appraiser who is aggrieved under this section may file a complaint with the board against the appraisal management company if the matter remains unresolved after the appraiser completes the company's dispute resolution process under Section 1104.162.

Sec. 1104.158. STATEMENT OF FEES. (a) In reporting to a client, an appraisal management company shall separately state the fees:

(1) paid to an appraiser for the completion of an appraisal; and

(2) charged by the company for appraisal management services.

(b) An appraisal management company may not:

(1) prohibit an appraiser from recording in the body of the report that is submitted by the appraiser to the company the fee that the appraiser was paid by the company for completing the appraisal; or

(2) include any fees for appraisal management services performed by the company in the amount the company reports as charges for the actual completion of an appraisal by an appraiser.

Sec. 1104.159. DISCLOSURE OF REGISTRATION NUMBER. An appraisal management company registered under this chapter shall disclose the company's registration number on all documents used to procure appraisals in this state.

Sec. 1104.160. MANDATORY REPORTING. An appraisal management company that has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice in a manner that materially affects a value conclusion, violating applicable laws, or otherwise engaging in unethical or unprofessional conduct shall refer the matter to the board in the manner provided by Section 1104.204.

Sec. 1104.161. REMOVAL OF APPRAISER FROM APPRAISAL PANEL. (a) Other than during the first 30 days after the date an appraiser is first added to the appraisal panel of an appraisal management company, a company may not remove an appraiser from its panel, or otherwise refuse to assign requests for appraisal services to an appraiser without:

(1) notifying the appraiser in writing of the reasons for removal from the company's panel;

(2) if the appraiser is being removed from the panel for illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of this chapter, notifying the appraiser of the nature of the alleged conduct or violation; and

(3) providing an opportunity for the appraiser to respond in writing to the notification.

(b) An appraiser who is removed from the appraisal panel of an appraisal management company for alleged illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of this chapter, may file a complaint with the board for a review of the decision of the company if the matter remains unresolved after the appraiser completes the company's dispute resolution process under Section 1104.162.

(c) In a review under Subsection (b), the board may not make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the grounds for the removal.

(d) The board shall hear and resolve a complaint filed under Subsection (b) not later than the 180th day after the date the complaint is filed with the board.

(e) If after opportunity for hearing and review, the board determines that an appraiser did not commit the alleged violation, the board shall order that the appraiser be returned to the appraisal panel of the appraisal management company. The appraisal management company may not refuse to make assignments for appraisal services or otherwise penalize the appraiser after returning the appraiser to the company's appraisal panel.

Sec. 1104.162. DISPUTE RESOLUTION. An appraisal management company shall make a dispute resolution process available to review a written request by an appraiser who:

(1) is dismissed from the company's appraisal panel for a reason stated in Section 1104.161(a)(2);

(2) is not paid as required by Section 1104.157; or

(3) alleges a violation by the company of one or more prohibitions in Section 1104.203.

[Sections 1104.163-1104.200 reserved for expansion]

SUBCHAPTER E. DISCIPLINARY ACTIONS AND PROCEDURES AND ADMINISTRATIVE PENALTIES

Sec. 1104.201. DISCIPLINARY POWERS OF BOARD. (a) The board may reprimand an appraisal management company or conditionally or unconditionally suspend or revoke any registration issued under this chapter if the board determines that the appraisal management company has:

(1) violated or attempted to violate this chapter or any rule adopted by the board under this chapter; or

(2) procured or attempted to procure a license or registration by fraud, misrepresentation, or deceit.

(b) The board may probate the suspension or revocation of a registration under reasonable terms determined by the board.

Sec. 1104.202. ADMINISTRATIVE PENALTY. (a) In addition to any other disciplinary action under this chapter, the board may impose an administrative penalty against a person who violates this chapter or a rule adopted under this chapter.

(b) The amount of the administrative penalty may not exceed \$10,000 for each violation. Each day of a continuing violation is a separate violation.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation;

(4) efforts made to correct the violation; and

(5) any other matter that justice may require.

Sec. 1104.203. PROHIBITED PRACTICES. (a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not:

(1) cause or attempt to cause the appraised value of a property assigned under an appraisal to be based on any factor other than the independent judgment of the appraiser;

(2) cause or attempt to cause the mischaracterization of the appraised value of a property in conjunction with a consumer credit transaction;

(3) seek to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of a consumer credit transaction;

(4) alter, modify, or otherwise change a completed appraisal report submitted by an appraiser by:

(A) altering or removing the appraiser's signature or seal; or

(B) adding information to, removing information from, or changing information contained in the appraisal report, including any disclosure submitted by an appraiser in or with the report;

(5) condition the request for an appraisal or the payment of an appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(6) request that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time before the appraiser's completion of an appraisal;

(7) provide to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for a purchase transaction may be provided;

(8) make any part of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including:

(A) a loan closing; or
(B) a specific valuation being achieved by the appraiser in the appraisal report;

(9) withhold or threaten to withhold timely payment for an appraisal report or appraisal services rendered when the appraisal report or services are provided in accordance with the contract between the parties;

(10) withhold or threaten to withhold future business from an appraiser;

(11) demote or terminate or threaten to demote or terminate an appraiser;

(12) expressly or impliedly promise future business, promotions, or increased compensation for an appraiser;

(13) provide to an appraiser, or any person related to the appraiser, stock or other financial or nonfinancial benefits;

(14) allow the removal of an appraiser from an appraisal panel, without prior written notice to the appraiser;

(15) obtain, use, or pay for a second or subsequent appraisal or order an automated valuation model in connection with a mortgage financing transaction unless:

(A) there is a reasonable basis to believe that the initial appraisal was flawed or tainted and that basis is clearly and appropriately noted in the loan file;

(B) the subsequent appraisal or automated valuation model is done under a bona fide pre-funding or post-funding appraisal review or quality control process; or

(C) the subsequent appraisal or automated valuation model is otherwise required or permitted by federal or state law;

(16) prohibit legal and allowable communication between the appraiser and:

(A) the lender;

(B) a real estate license holder; or

(C) any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;

(17) refuse to accept an appraisal report prepared by more than one appraiser if an appraiser provides substantial assistance to another appraiser in the preparation of the report, unless the appraisal assignment names an individual appraiser or the statement of work requires an unassisted report; or

(18) require an appraiser to:

(A) prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area and the appraiser has notified the company of this belief;

(B) prepare an appraisal report under a schedule that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations if the appraiser has notified the company of this belief;

(C) provide the appraisal management company with the appraiser's digital signature or seal;

(D) modify any aspect of an appraisal report without the appraiser's agreement that the modification is appropriate;

(E) engage in any act or practice that does not comply with:

(i) the Uniform Standards of Professional Appraisal Practice;

or

(ii) any assignment conditions and certifications required by the client;

(F) engage in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality;

(G) enter into an agreement to not serve on the panel of another appraisal management company;

(H) indemnify or hold harmless the appraisal management company against liability except liability for errors and omissions by the appraiser; or

(I) pay a fee imposed on the appraisal management company under Section 1104.052.

(b) Subsection (a) may not be construed to prohibit:

(1) an appraiser from reimbursing an appraisal management company for the actual cost of discretionary services provided to the appraiser;

(2) an appraiser from voluntarily providing the appraiser's digital signature to another person;

(3) an appraisal management company from asking an appraiser, after a report is delivered, to:

(A) consider additional appropriate property information, including the consideration of additional comparable properties to make or support an appraisal;

(B) provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(C) correct errors in the appraisal report;

(4) an appraisal management company from requiring an appraiser to provide advance notice of and an opportunity for the appraisal management company to participate in any legal and allowable communications between the appraiser and a lender; or

(5) a copy of an executed contract for a purchase transaction being provided to an appraiser.

(c) The board may institute a disciplinary action or impose an administrative penalty under Chapter 1103 against an appraiser who, while acting as an employee, officer, or agent of an appraisal management company, engages in conduct prohibited by Subsection (a).

Sec. 1104.204. COMPLAINT. (a) Any person, including a member of the board, may file with the board a written complaint on a form prescribed by the board.

(b) The board, on its own motion, may file a complaint against an appraisal management company registered under this chapter.

Sec. 1104.205. REVIEW AND INVESTIGATION. (a) On receipt of a complaint or on its own motion, the board shall review and investigate an alleged act or omission that the board believes is a ground for disciplinary action.

(b) An investigator designated by the presiding officer of the board or commissioner shall investigate each allegation in a complaint to determine whether probable cause exists for a hearing on the complaint.

(c) If the board determines that a complaint does not present facts that are grounds for disciplinary action, the board or the commissioner shall dismiss the complaint and may not take further action.

Sec. 1104.206. GENERAL SUBPOENA AUTHORITY. (a) The board may request and, if necessary, compel by subpoena:

(1) the attendance of witnesses for examination under oath; and

(2) the production of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter for inspection and copying.

(b) The board may also issue a subpoena for purposes of an investigation of a complaint to determine whether the board should institute a contested case proceeding.

(c) If a person does not comply with a subpoena, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held.

(d) The court shall order compliance with the subpoena if the court finds that good cause exists for the issuance of the subpoena.

Sec. 1104.207. REPORT OF INVESTIGATION REQUIRED. (a) At the conclusion of the investigation of a complaint, the investigator shall submit to the board a written report to enable the board to determine what further action is necessary.

(b) The report must contain:

(1) statements of fact;

(2) the recommendations of the investigator; and

(3) the position or defense of the investigated appraisal management company.

Sec. 1104.208. ACTION BASED ON REPORT. (a) Based on the report submitted under Section 1104.207, the board may:

(1) order further investigation of the complaint;

(2) determine that there is not probable cause to believe that a violation occurred and dismiss the case; or

(3) determine that there is probable cause to believe that a violation occurred and enter into an agreed order with the respondent or proceed as the complainant with a contested case hearing under Chapter 2001, Government Code.

(b) The board by rule may delegate any of its authority under Subsection (a) to the commissioner.

Sec. 1104.209. NOTICE OF VIOLATION AND PENALTY. (a) If, after investigating a possible violation and the facts surrounding that possible violation, the board determines that a violation occurred, the board shall give written notice of the violation to the person alleged to have committed the violation.

(b) The notice must:

(1) include a summary of the alleged violation;

(2) state the recommended sanction, including the amount of the proposed administrative penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(c) Not later than the 20th day after the date the person receives the notice, the person may:

(1) accept the board's determination, including the proposed administrative penalty; or

(2) make a written request for a hearing on that determination.

Sec. 1104.210. PENALTY TO BE PAID OR HEARING REQUESTED. If the person accepts the board's determination or fails to respond to the notice in a timely manner, the board by order shall approve the determination and impose the proposed penalty.

Sec. 1104.211. TEMPORARY SUSPENSION. (a) The presiding officer of the board shall appoint a three-member disciplinary panel consisting of board members to determine whether a person's registration under this chapter should be temporarily suspended.

(b) If the disciplinary panel determines from the information presented to the panel that a person registered under this chapter would, by the person's continuation in practice, constitute a continuing threat to the public welfare, the disciplinary panel shall temporarily suspend the person's registration.

(c) A registration may be suspended under this section without notice or hearing on the complaint if:

(1) institution of proceedings for a contested case hearing is initiated simultaneously with the temporary suspension; and

(2) a hearing is held under Chapter 2001, Government Code, and this chapter as soon as possible.

(d) A temporary suspension under this section automatically expires after 45 days if the board has not scheduled a hearing to take place within that time or if, at the board's request, the hearing is continued beyond the 45th day.

(e) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening the panel at one location is inconvenient for any member of the panel.

Sec. 1104.212. NOTICE OF HEARING. Not later than the 30th day before the hearing date of a contested case involving an appraisal management company, the board shall personally deliver or send by certified mail to the company notice of the hearing.

Sec. 1104.213. APPLICABILITY OF ADMINISTRATIVE PROCEDURE LAW. Except as otherwise provided by this chapter, a proceeding under this subchapter is subject to Chapter 2001, Government Code.

Sec. 1104.214. ACTION AFTER HEARING. On conclusion of a contested case hearing under this subchapter, the administrative law judge shall:

(1) make findings of fact and conclusions of law; and
(2) issue to the board a proposal for decision that the board shall take one or more of the following actions:

(A) dismiss the charges;
(B) revoke the appraisal management company's registration;
(C) suspend the registration of the appraisal management company for a period of not more than five years;

(D) impose a period of probation, with or without conditions;
(E) issue a public or private reprimand or a warning;
(F) impose an administrative penalty; or
(G) require the payment of costs expended by the board associated with the contested case, including legal fees and administrative costs.

Sec. 1104.215. DECISION BY BOARD. (a) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the board by order may determine that:

(1) a violation has occurred and may impose an administrative penalty or another sanction; or

(2) a violation did not occur.

(b) The board shall give notice of the order to the person. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;
(2) the amount of any penalty imposed or a description of any sanction imposed; and
(3) a statement of the right of the person to judicial review of the order.

Sec. 1104.216. APPLICATION FOR REHEARING. (a) Not later than the 20th day after the date a final decision is issued in a contested case, a party may file an application with the board for a rehearing. The application must state:

(1) the specific grounds for rehearing; and

(2) the relief sought.

(b) The application is denied if the board does not grant it before the 120th day after the date the commissioner is served with the application.

Sec. 1104.217. DECISION ON REHEARING. (a) The decision made at the conclusion of the original contested case hearing may not be reversed or modified for a procedural, evidentiary, or other error that did not cause substantial injustice to the parties.

(b) The decision made on a rehearing may incorporate by reference any part of the decision made at the conclusion of the original hearing.

(c) On rehearing, the administrative law judge shall consider facts not presented in the original hearing if:

(1) the facts arose after the original hearing was concluded;

(2) the party offering the evidence could not reasonably have provided the evidence at the original hearing; or

(3) the party offering the evidence was misled by a party regarding the necessity for offering the evidence at the original hearing.

[Sections 1104.218-1104.250 reserved for expansion]

SUBCHAPTER F. OTHER ENFORCEMENT PROVISIONS

Sec. 1104.251. INJUNCTION. (a) The board may institute an action in its own name against any person, including a person who is not registered under this chapter, to enjoin a violation of this chapter or a rule adopted by the board under this chapter.

(b) An action under this section must be brought in a district court in Travis County. The attorney general shall act as legal advisor to the board and provide necessary legal assistance.

Sec. 1104.252. CIVIL PENALTY FOR ENGAGING IN ACTIVITY WITHOUT REQUIRED REGISTRATION. (a) A person who receives consideration for engaging in an activity for which registration is required under this chapter and who is not registered is liable for a civil penalty.

(b) The amount of a civil penalty imposed under this section may not be less than the amount of money equal to the value of the consideration received or more than three times the amount of money equal to the value of the consideration received.

(c) At the request of the board, the attorney general or a district or county attorney may bring an action in district court to recover a civil penalty under this section.

(d) A civil penalty recovered in an action under this section shall be deposited in the state treasury.

Sec. 1104.253. CRIMINAL PENALTY FOR ENGAGING IN ACTIVITY WITHOUT REQUIRED REGISTRATION. (a) A person commits an offense if the person engages in an activity for which registration is required under this chapter without being registered.

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

SECTION 3. Not later than January 31, 2013, the governor shall appoint the members of the advisory committee established under Section 1103.157, Occupations Code, as added by this Act.

SECTION 4. Not later than January 1, 2012, the Texas Appraiser Licensing and Certification Board shall adopt all rules, fees, and forms as required by Chapter 1104, Occupations Code, as added by this Act.

SECTION 5. (a) The Real Estate Center at Texas A&M University shall conduct a study of the reasonable and customary rates of compensation for appraisals performed by appraisers in various market areas of this state.

(b) Not later than November 1, 2012, the Real Estate Center at Texas A&M University shall submit to the appropriate standing committees of the legislature a report containing the findings of the study conducted under Subsection (a) of this section.

SECTION 6. Notwithstanding Section 7(b) of this Act, an appraisal management company conducting business in this state on or before the effective date of this Act may continue to conduct business in this state without registering under Chapter 1104, Occupations Code, as added by this Act, until the 120th day after the date the registration process created by the Texas Appraiser Licensing and Certification Board under Chapter 1104, Occupations Code, as added by this Act, takes effect if that process is not in effect on March 1, 2012.

SECTION 7. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Section 1104.101 and Subchapters E and F, Chapter 1104, Occupations Code, as added by this Act, take effect March 1, 2012.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 5 p.m. today, in 1W.14, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 5 p.m. today, 1W.14, for a formal meeting, to set a calendar.

HB 2014 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2014, A bill to be entitled An Act relating to certain criminal and civil consequences of trafficking of persons, compelling prostitution, and certain other related criminal offenses and to the prevention, prosecution, and punishment of those offenses.

Representative Thompson moved to concur in the senate amendments to **HB 2014**.

The motion to concur in the senate amendments to **HB 2014** prevailed by (Record 1156): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon;

Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Bohac; Harless.

Senate Committee Substitute

CSHB 2014, A bill to be entitled An Act relating to certain criminal and civil consequences of trafficking of persons, compelling prostitution, and certain other related criminal offenses and to the prevention, prosecution, and punishment of those offenses.

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

ARTICLE 1. CHANGES RELATING TO ALCOHOLIC BEVERAGE CODE

SECTION 1.01. Section 11.44(b), Alcoholic Beverage Code, is amended to read as follows:

(b) The commission or administrator shall refuse to issue for a period of three years a permit or license for any location to an applicant who submitted a prior application that expired or was voluntarily surrendered before the hearing on the application was held on a protest involving allegations of prostitution, a shooting, stabbing, or other violent act, or an offense involving drugs or trafficking of persons. The three-year period commences on the date the prior application expired or was voluntarily surrendered.

SECTION 1.02. Section 11.46(c), Alcoholic Beverage Code, is amended to read as follows:

(c) The commission or administrator shall refuse to issue for a period of one year after cancellation a mixed beverage permit or private club registration permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

SECTION 1.03. Section 11.64(a), Alcoholic Beverage Code, is amended to read as follows:

(a) When the commission or administrator is authorized to suspend a permit or license under this code, the commission or administrator shall give the permittee or licensee the opportunity to pay a civil penalty rather than have the permit or license suspended, unless the basis for the suspension is a violation of Section 11.61(b)(14), 22.12, 28.11, 32.17(a)(2), 32.17(a)(3), 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.04, 101.63, 106.03, 106.06, or 106.15, the sale or offer for sale of an alcoholic beverage during hours prohibited by Chapter 105, consumption or the permitting of consumption of an alcoholic beverage on the person's licensed or permitted premises during hours prohibited by Chapter 105 or Section 32.17(a)(7), or an offense relating to prostitution, trafficking of persons, or gambling, in which case the commission or

administrator shall determine whether the permittee or licensee may have the opportunity to pay a civil penalty rather than have the permit or license suspended. The commission shall adopt rules addressing when suspension may be imposed pursuant to this section without the opportunity to pay a civil penalty. In adopting rules under this subsection, the commission shall consider the type of license or permit held, the type of violation, any aggravating or ameliorating circumstances concerning the violation, and any past violations of this code by the permittee or licensee. In cases in which a civil penalty is assessed, the commission or administrator shall determine the amount of the penalty. The amount of the civil penalty may not be less than \$150 or more than \$25,000 for each day the permit or license was to have been suspended. If the licensee or permittee does not pay the penalty before the sixth day after the commission or administrator notifies him of the amount, the commission or administrator shall impose the suspension.

SECTION 1.04. Section 61.42(c), Alcoholic Beverage Code, is amended to read as follows:

(c) The county judge, commission, or administrator shall refuse to approve or issue for a period of one year a retail dealer's on-premise license or a wine and beer retailer's permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

ARTICLE 2. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

SECTION 2.01. Article 17.153(a), Code of Criminal Procedure, is amended to read as follows:

(a) This article applies to a defendant charged with a felony offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 years of age:

- (1) Chapter 21 (Sexual Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct); ~~[or]~~
- (3) Section 43.25 (Sexual Performance by a Child);
- (4) Section 20A.02 (Trafficking of Persons), if the defendant is alleged

to have:

(A) trafficked the child with the intent or knowledge that the child would engage in sexual conduct, as defined by Section 43.25, Penal Code; or

(B) benefited from participating in a venture that involved a trafficked child engaging in sexual conduct, as defined by Section 43.25, Penal Code; or

- (5) Section 43.05(a)(2) (Compelling Prostitution).

SECTION 2.02. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0372 to read as follows:

Art. 42.0372. MANDATORY RESTITUTION FOR CHILD VICTIMS OF TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION. (a) The court shall order a defendant convicted of an offense under Section 20A.02 or

43.05(a)(2), Penal Code, to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for any victim of the offense who is younger than 18 years of age.

(b) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must pay the restitution.

(c) A restitution order issued under Subsection (a) may be enforced by the state, or by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(d) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.

SECTION 2.03. Section 13B(b), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(b) This section applies to a defendant placed on community supervision for an offense:

- (1) under Section 43.05(a)(2), 43.25, or 43.26, Penal Code;
- (2) under Section 21.08, 21.11, 22.011, 22.021, or 25.02, Penal Code;
- (3) under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; ~~or~~
- (4) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony listed in Subdivision (2) or (3) of this subsection; or
- (5) under Section 20A.02, Penal Code, if the defendant:

(A) trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct, as defined by Section 43.25, Penal Code;
or

(B) benefited from participating in a venture that involved a trafficked victim engaging in sexual conduct, as defined by Section 43.25, Penal Code.

SECTION 2.04. Article 59.01(2), Code of Criminal Procedure, as amended by Chapters 153 (**SB 2225**), 1130 (**HB 2086**), and 1357 (**SB 554**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

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

- (A) used in the commission of:
 - (i) any first or second degree felony under the Penal Code;
 - (ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, or ~~Subchapter B of~~ Chapter 43, 20A, ~~or Chapter~~ 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

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

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

- (B) used or intended to be used in the commission of:
- (i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);
 - (ii) any felony under Chapter 483, Health and Safety Code;
 - (iii) a felony under Chapter 153, Finance Code;
 - (iv) any felony under Chapter 34, Penal Code;
 - (v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;
 - (vi) any felony under Chapter 152, Finance Code;
 - (vii) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;
 - (viii) a Class B misdemeanor under Chapter 522, Business & Commerce Code;
 - (ix) a Class A misdemeanor under Section 306.051, Business & Commerce Code; ~~(x)~~
 - (x) any offense under Section 42.10, Penal Code;
 - (xi) ~~(x)~~ any offense under Section 46.06(a)(1) or 46.14, Penal Code; or
 - (xii) ~~(x)~~ any offense under Chapter 71, Penal Code;

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

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

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code; or

(F) used to facilitate or intended to be used to facilitate the commission of a felony under Section 20A.02 or Chapter 43, Penal Code.

SECTION 2.05. Article 60.051(g), Code of Criminal Procedure, is amended to read as follows:

(g) In addition to the information described by Subsections (a)-(f), information in the computerized criminal history system must include the age of the victim of the offense if the defendant was arrested for or charged with an offense under:

- (1) Section 21.02 (Continuous sexual abuse of young child or children), Penal Code;
- (2) Section 21.11 (Indecency with a child), Penal Code;
- (3) Section 22.011 (Sexual assault) or 22.021 (Aggravated sexual assault), Penal Code;
- (4) Section 43.25 (Sexual performance by a child), Penal Code;

(5) Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually; ~~or~~

(6) Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit an offense described by Subdivision (2), (3), or (5);

(7) Section 20A.02 (Trafficking of persons), Penal Code, if the defendant:

(A) trafficked a person with the intent or knowledge that the person would engage in sexual conduct, as defined by Section 43.25, Penal Code; or

(B) benefited from participating in a venture that involved a trafficked person engaging in sexual conduct, as defined by Section 43.25, Penal Code; or

(8) Section 43.05(a)(2) (Compelling prostitution), Penal Code.

ARTICLE 3. CHANGES RELATING TO GOVERNMENT CODE

SECTION 3.01. Subchapter C, Chapter 71, Government Code, is amended by adding Section 71.0353 to read as follows:

Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System, a district court or county court at law shall report the number of cases filed for the following offenses:

(1) trafficking of persons under Section 20A.02, Penal Code;

(2) prostitution under Section 43.02, Penal Code; and

(3) compelling prostitution under Section 43.05, Penal Code.

SECTION 3.02. Section 411.042(b), Government Code, is amended to read as follows:

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including information that enables the bureau to create a statistical breakdown of:

(A) offenses in which family violence was involved;

(B) ~~and a statistical breakdown of~~ offenses under Sections 22.011 and 22.021, Penal Code; and

(C) offenses under Sections 20A.02 and 43.05, Penal Code;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check under Section 411.119, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense;

(6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders. Information in the law enforcement information system relating to an active protective order shall include:

(A) the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

(B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

(C) the name and county of residence of the person protected by the order;

(D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007, Family Code;

(E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends, unless that information is excluded from the order under Section 85.007, Family Code;

(F) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed; and

(G) the date the order expires;

(7) grant access to criminal history record information in the manner authorized under Subchapter F;

(8) collect and disseminate information regarding offenders with mental impairments in compliance with Chapter 614, Health and Safety Code; and

(9) record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system that serves:

(A) as the record creation point for criminal history record information and juvenile justice information maintained by the state; and

(B) as the control terminal for the entry of records, in accordance with federal law and regulations, federal executive orders, and federal policy, into the federal database maintained by the Federal Bureau of Investigation.

SECTION 3.03. Section 508.187(a), Government Code, is amended to read as follows:

(a) This section applies only to a releasee serving a sentence for an offense under:

(1) Section 43.25 or 43.26, Penal Code;

(2) Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(3) Section 20.04(a)(4), Penal Code, if the releasee committed the offense with the intent to violate or abuse the victim sexually; [✕]

(4) Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the releasee committed the offense with the intent to commit a felony listed in Subdivision (2) or (3);

(5) Section 43.05(a)(2), Penal Code; or

(6) Section 20A.02, Penal Code, if the defendant:

(A) trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct, as defined by Section 43.25, Penal Code;
or

(B) benefited from participating in a venture that involved a trafficked victim engaging in sexual conduct, as defined by Section 43.25, Penal Code.

SECTION 3.04. Sections 772.006(e) and (f), Government Code, are amended to read as follows:

(e) The legislature may appropriate money from the trafficking of persons investigation and prosecution account created under Subsection (d) only to the criminal justice division for the purposes of this subsection. The division may use the appropriated money solely to distribute grants to qualified applicants, as determined by the division, that:

(1) ~~[counties that apply for the grants and that]~~ have dedicated full-time or part-time personnel to identify, prevent, investigate, or prosecute offenses under Chapter 20A, Penal Code; ~~or [and]~~

(2) ~~[nongovernmental organizations that apply for the grants and that]~~ provide comprehensive services in this state to prevent the commission of offenses under Chapter 20A, Penal Code, or to address the needs of victims of those offenses, including public awareness activities, community outreach and training, victim identification services, legal services, and other services designed to assist victims.

(f) The total amount of grants that may be distributed under this section [to ~~counties and nongovernmental organizations]~~ from the trafficking of persons investigation and prosecution account during each state fiscal year may not exceed \$10 million.

ARTICLE 4. CHANGES RELATING TO PENAL CODE

SECTION 4.01. Section 25.08(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor commits the offense with intent to commit an offense under Section 20A.02, 43.02, 43.05, or 43.25.

SECTION 4.02. Section 43.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor if ~~[unless]~~ the actor has previously been convicted one or two times of an offense under this section;

(2) a state jail felony if ~~[in which event it is a Class A misdemeanor. If]~~ the actor has previously been convicted three or more times of an offense under this section;

(3) a felony of the third degree if the person solicited is 14 years of age or older and younger than 18 years of age; or

(4) a felony of the second degree if the person solicited is younger than 14 years of age, ~~the offense is a state jail felony~~.

SECTION 4.03. Section 43.251(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if the child is younger than 14 years of age at the time the offense is committed ~~[Class A misdemeanor]~~.

ARTICLE 5. TRANSITION; EFFECTIVE DATE

SECTION 5.01. Except as provided by Section 5.02 of this Act, the changes in law made by this Act 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 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 occurred before that date.

SECTION 5.02. The changes in law made by this Act to Sections 11.44, 11.46, 11.64, and 61.42, Alcoholic Beverage Code, apply only to an application for a license filed on or after the effective date of this Act. An application for a license filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 5.03. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5.04. This Act takes effect September 1, 2011.

HB 1123 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1123, A bill to be entitled An Act relating to the regulation of athlete agents; providing administrative and criminal penalties.

Representative Dutton moved to concur in the senate amendments to **HB 1123**.

The motion to concur in the senate amendments to **HB 1123** prevailed by (Record 1157): 140 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson;

Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Bohac; Harless.

Absent — Alonzo; Anderson, R.; Coleman; Harper-Brown; Simpson.

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

Amend **HB 1123** (house engrossed) as follows:

(1) On page 4, lines 8-10, strike the following:

"an arrest for a crime that in this state is an offense other than a Class C misdemeanor;"

(2) On page 4, lines 13-20, reletter the paragraphs of Section 2051(b)(3), Occupations Code, accordingly.

(3) On page 7, line 10, strike "arrest for" and substitute "conviction of".

(4) On page 7, line 17, strike "the arrest" and substitute "conviction."

HR 1795 - ADOPTED

(by Villarreal)

Representative Garza moved to suspend all necessary rules to take up and consider at this time **HR 1795**.

The motion prevailed.

The following resolution was laid before the house:

HR 1795, Congratulating the educators and administrators who have earned 2011 H-E-B Excellence in Education Awards.

HR 1795 was adopted.

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).

RECESS

Representative Peña moved that the house recess until 9 a.m. tomorrow in memory of John Austin Peña of Edinburg.

The motion prevailed.

The house accordingly, at 5:03 p.m., recessed until 9 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 31

HB 27, HB 563, HB 699, HB 843, HB 848, HB 908, HB 1028, HB 1106, HB 1380, HB 1390, HB 1401, HB 1405, HB 1829, HB 1956, HB 2229, HB 3000, HCR 69, HCR 100

House List No. 32

HB 35, HB 118, HB 184, HB 266, HB 315, HB 434, HB 460, HB 479, HB 625, HB 650, HB 679, HB 716, HB 726, HB 885, HB 988, HB 989, HB 993, HB 1061, HB 1130, HB 1174, HB 1263, HB 1344, HB 1449, HB 1488, HB 1503, HB 1545, HB 1566, HB 1567, HB 1570, HB 1674, HB 1779, HB 1861, HB 1862, HB 1869, HB 2033, HB 2035, HB 2144, HB 2251, HB 2271, HB 2351, HB 2360, HB 2376, HB 2495, HB 2615, HB 2631, HB 2670, HB 2699, HB 2866, HB 2920, HB 2935, HB 3004, HB 3141, HB 3255, HB 3389, HB 3487, HB 3570, HB 3847, HCR 33, HCR 143

Senate List No. 29

SB 14, SB 118, SB 132, SB 328, SB 420, SB 977, SB 1125, SB 1353, SB 1693, SCR 25

MESSAGES FROM THE SENATE

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

Message No. 1

**MESSAGE FROM THE SENATE
SENATE CHAMBER**

Austin, Texas

Wednesday, May 18, 2011

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 923

Deuell

Relating to creating a branch winery permit.

SB 1021 Rodriguez

Relating to certain examination requirements for physicians.

SB 1807 Lucio

Relating to the composition of the 444th Judicial District.

SB 1913 Watson

Relating to the creation of the Southeast Travis County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds.

SB 1914 Watson

Relating to the creation of the Southeast Travis County Municipal Utility District No. 2; providing authority to impose a tax and issue bonds.

SB 1915 Watson

Relating to the creation of the Southeast Travis County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, May 18, 2011 - 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 215 Gallego SPONSOR: Ellis

Relating to photograph and live lineup identification procedures in criminal cases.

HB 252 Hilderbran SPONSOR: Estes

Relating to eligibility for an exemption from ad valorem taxation of the residence homestead of a person.

(Committee Substitute/Amended)

HB 417 Anchia SPONSOR: Ellis

Relating to claims for compensation for wrongful imprisonment.

(Committee Substitute/Amended)

HB 423 Guillen SPONSOR: Williams

Relating to the powers of rural and urban transit districts.

- HB 555** Howard, Donna SPONSOR: Watson
Relating to reportable boating accidents and the penalties for certain boating accidents.
- HB 871** Davis, Yvonne SPONSOR: Zaffirini
Relating to indigent health care services that may be provided by a county.
(Amended)
- HB 901** Thompson SPONSOR: Harris
Relating to spousal maintenance.
- HB 1573** Gallego SPONSOR: Carona
Relating to certain pretrial and post-trial procedures in a criminal case.
(Amended)
- HB 1899** Pickett SPONSOR: Rodriguez
Relating to the posting of signs in school crossing zones regarding the prohibited use of a wireless communication device while operating a motor vehicle.
(Committee Substitute)
- HB 2007** Shelton SPONSOR: Davis
Relating to payment by the Benbrook Water Authority for certain damages caused by the authority's operation of a sanitary sewer system.
- HB 2170** Raymond SPONSOR: Davis
Relating to assisting a foster child in obtaining the child's credit report.
(Amended)
- HB 2342** Truitt SPONSOR: Watson
Relating to certain violations of and offenses under The Securities Act; providing penalties.
- HB 2851** Mallory Caraway SPONSOR: Rodriguez
Relating to deferral of certain surcharge payments for military personnel deployed outside of the continental United States.
- HB 2973** Hunter SPONSOR: Ellis
Relating to encouraging public participation by citizens by protecting a person's right to petition, right of free speech, and right of association from meritless lawsuits arising from actions taken in furtherance of those rights.
(Committee Substitute)
- HB 3051** Pickett SPONSOR: Rodriguez
Relating to the provision of child care by certain facilities exempt from child-care licensing requirements.
- HB 3234** Hernandez Luna SPONSOR: Davis
Relating to the prioritization of requests to release certain case records maintained by the Department of Family and Protective Services.
- HB 3302** Reynolds SPONSOR: Hegar
Relating to the authority of certain Type A economic development corporations to undertake certain categories of projects.
(Amended)
- HB 3342** Naishtat SPONSOR: Rodriguez

Relating to representation of and by the state and joinder of the state in certain mental health proceedings.

(Committee Substitute)

HB 3510 Hamilton SPONSOR: Carona

Relating to the regulation of the towing, booting, and storage of vehicles.

(Committee Substitute)

HJR 130 Branch SPONSOR: Birdwell

Meeting requirements of the United States Department of Education concerning federal student aid by naming private institutions of higher education in the State of Texas that are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.

(Committee Substitute)

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 602

Senate Conferees: Rodriguez - Chair/Eltife/Gallegos/Uresti/Wentworth

SB 647

Senate Conferees: Hegar - Chair/Birdwell/Huffman/Nelson/Uresti

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

HB 1112

Senate Conferees: Nichols - Chair/Rodriguez/Shapiro/Watson/Williams

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Wednesday, May 18, 2011 - 3

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 1425

Wentworth

Relating to an account for construction retainage; providing a civil penalty.

SB 1916

Watson

Relating to the creation of the Southeast Travis County Municipal Utility District No. 4; providing authority to impose a tax and issue bonds.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 17

Agriculture and Livestock - **SB 811**

Business and Industry - **SB 142**

County Affairs - **SB 303, SB 1906**

Criminal Jurisprudence - **SB 167, SB 1701**

Culture, Recreation, and Tourism - **SB 252**

Defense and Veterans' Affairs - **HCR 71, SB 1477, SB 1660**

Economic and Small Business Development - **SB 1534, SB 1714**

Higher Education - **SB 74, SB 179, SB 514, SB 1414**

Human Services - **SB 71, SB 223, SB 681, SB 1878**

Judiciary and Civil Jurisprudence - **SB 1197, SB 1236**

Licensing and Administrative Procedures - **SB 1000, SB 1001**

Natural Resources - **HB 3864, HB 3865**

Pensions, Investments, and Financial Services - **SB 29, SB 155, SB 249, SB 579, SB 1008**

Public Education - **SB 35, SB 226, SB 419, SB 1410, SB 1484, SB 1543, SB 1619**

Public Health - **SB 263, SB 594, SB 736**

Transportation - **SB 802, SB 1035**

ENROLLED

May 17 - HB 1401, HB 3000

SIGNED BY THE GOVERNOR

**May 17 - HB 558, HB 801, HB 905, HB 1551, HB 1808, HB 1944,
HCR 9**