

HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTIETH DAY — MONDAY, MAY 21, 2007

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 1549).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent — Elkins; Isett; McCall; Moreno; Pitts; Talton.

The invocation was offered by Dr. W. C. "Buddy" Burns, pastor, Northshore Church, Montgomery, as follows:

Our dear Heavenly Father, we come to you today to express our gratitude to you for sending your son Jesus Christ to die for us on Calvary's Cross. We thank you Lord for the bountiful blessings you have bestowed on our beloved State of Texas. We pray that you will always give our leaders the wisdom and discernment that they need to carry on their responsibility to govern in our State of Texas. We know Lord you alone can enable them to rise above their own limitations and shortcomings to pass meaningful bills that will be a blessing to the people of Texas.

Today we pray for families that have experienced the physical storms of life. We pray for their children as they are the future leaders of our wonderful state.

We pray for our governor and his staff as they lead us here in Texas. We pray for the families of the state representatives, that they will be encouraged even while their husbands are leading away from home at this hour.

I ask God that you grant an abundance of wisdom to the ones present today in this room who serve our great state. Bless them in a special way is my specific prayer for each of them present today. We know that these servants make a great sacrifice in leaving their families to take care of our state's business and we ask your protection upon each of them as they go about their daily duties. Bless them and their families back home and use them in a mighty way.

We would not forget to pray for our beloved President Bush as he leads our nation called America. O God, give each of us an abundance of grace and love as we go about our daily activities. O God, bless us all as we ask for your direction and guidance each day of our lives. Use us for your glory and praise. Bless our great State of Texas. In Jesus' sweet name, I pray. Amen.

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

REGULAR ORDER OF BUSINESS SUSPENDED

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

CAPITOL PHYSICIAN

The speaker recognized Representative F. Brown who presented Drs. David McClellan and James Qui of Bryan as the "Doctors for the Day."

The house welcomed Drs. McClellan and Qui and thanked them for their participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

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 Nos. 1, 2, and 3).

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. 42).

ADDRESS BY REPRESENTATIVE HARDCASTLE

Thank you, Mr. Speaker. Members, we've all been touched by this war we're in, and on Friday, one of Cayce's classmates was killed in Iraq during the search for the two soldiers that are missing still. He was shot to death Friday. We don't know anything yet, because they can't even promise us how many days it'll take to have the body back in the U.S., but as you go through your day, your hectic day, remember these kids, because that's exactly what they are. Remember these kids that are serving us in Iraq. Thank you.

**HB 188 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 188, A bill to be entitled An Act relating to the adoption of textbooks and the use of credits for textbooks or other instructional materials in a school district or open-enrollment charter school.

(Solomons in the chair)

Representative Hochberg moved to concur in the senate amendments to **HB 188**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1550): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jackson; Jones; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Chisum; Elkins; Hartnett; Howard, C.; Isett; Keffer; Martinez Fischer; McCall; Moreno; Oliveira; Pitts; Talton.

HB 188 - STATEMENT OF LEGISLATIVE INTENT

Sec. 31.035(e), as added by **HB 188**, does not preclude the use of textbooks on the nonconforming list, as is currently permitted, as part of the group of textbooks discussed under Sec. 31.035(d)(2), and the cost of such nonconforming textbooks would be included in the calculation in Sec. 31.035(e).

Hochberg

Senate Committee Substitute

CSHB 188, A bill to be entitled An Act relating to the adoption of textbooks and the use of credits for textbooks or other instructional materials in a school district or open-enrollment charter school.

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

SECTION 1. It is the intent of the legislature that Section 31.1011, Education Code, as enacted by this Act, is reflective of Section 31.1011, Education Code, as enacted by Section 3, Chapter 805, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 2. Section 31.022, Education Code, is amended by adding Subsection (e) to read as follows:

(e) The board shall designate a request for production of textbooks in a subject area and grade level by the school year in which the textbooks are intended to be made available in classrooms and not by the school year in which the board makes the request for production.

SECTION 3. Subchapter B, Chapter 31, Education Code, is amended by adding Sections 31.0221 and 31.0222 to read as follows:

Sec. 31.0221. MIDCYCLE REVIEW AND ADOPTION OF TEXTBOOKS. (a) The State Board of Education shall adopt rules for the midcycle review and adoption of a textbook for a subject for which textbooks are not currently under review by the board under Section 31.022. The rules must require:

(1) the publisher of the textbook to pay a fee to the board to cover the cost of the midcycle review and adoption of the textbook;

(2) the publisher of the textbook to enter into a contract with the board concerning the textbook for a term that ends at the same time as any contract entered into by the board for another textbook for the same subject and grade level; and

(3) a commitment from the publisher to provide the textbook to school districts in the manner specified by the publisher, which may include:

(A) providing the textbook to any district in a regional education service center area identified by the publisher; or

(B) providing a certain maximum number of textbooks specified by the publisher.

(b) Sections 31.023 and 31.024 apply to a textbook adopted under this section. Section 31.027 does not apply to a textbook adopted under this section.

Sec. 31.0222. BUDGET-BALANCED CYCLE. In determining the review and adoption cycle of textbooks under Section 31.022, the State Board of Education shall:

(1) consult with the Legislative Budget Board and the governor's office of budget, planning, and policy before approving and publishing any notice or amendment of a cycle;

(2) review and consider:

(A) historic average funding levels for textbooks purchased in previous biennia;

(B) expected average costs of future textbook purchases;

(C) anticipated student enrollment in future years;

(D) scheduled revisions to curriculum; and

(E) the impact on the state budget of the adoption of textbooks in all or some grade levels in a subject area; and

(3) limit the cycle to subject areas for which textbooks can be purchased with the funding anticipated to be available in the state textbook fund for the school year in which the textbooks are to be adopted.

SECTION 4. Section 31.023(a), Education Code, is amended to read as follows:

(a) For each subject and grade level, the State Board of Education shall adopt two lists of textbooks. The conforming list includes each textbook submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering each element of the essential knowledge and skills of the subject and grade level in the student version of the textbook, as well as in the teacher version of the textbook, as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024. The nonconforming list includes each textbook submitted for the subject and grade level that:

(1) meets applicable physical specifications adopted by the State Board of Education;

(2) contains material covering at least half, but not all, of the elements of the essential knowledge and skills of the subject and grade level in the student version of the textbook, as well as in the teacher version of the textbook; and

(3) is adopted under Section 31.024.

SECTION 5. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.035 to read as follows:

Sec. 31.035. SUPPLEMENTAL TEXTBOOKS. (a) Notwithstanding any other provision of this subchapter, the State Board of Education may adopt supplemental textbooks that are not on the conforming or nonconforming list under Section 31.023. The State Board of Education may adopt a supplemental textbook under this section only if the textbook:

(1) contains material covering one or more primary focal points or primary topics of a subject in the required curriculum under Section 28.002, as determined by the State Board of Education;

(2) is not designed to serve as the sole textbook for a full course;

(3) meets applicable physical specifications adopted by the State Board of Education; and

(4) is free from factual errors.

(b) The State Board of Education shall identify the essential knowledge and skills identified under Section 28.002 that are covered by a supplemental textbook adopted by the board under this section.

(c) A supplemental textbook is subject to the review and adoption cycle provisions, including the midcycle review and adoption cycle provisions, of this subchapter.

(d) A school district or open-enrollment charter school may requisition a supplemental textbook adopted under this section only if the district or school:

(1) uses textbook credits received under Section 31.1011 to purchase the supplemental textbook; or

(2) instead of requisitioning a textbook on the conforming list under Section 31.023 for a course in the foundation curriculum under Section 28.002, requisitions the supplemental textbook along with other supplemental textbooks or textbooks on the nonconforming list under Section 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental textbooks.

(e) If the total cost for the supplemental textbooks requisitioned by a school district or open-enrollment charter school under Subsection (d)(2) for a course is less than the limit on the cost under Section 31.025(a) for a single textbook on the conforming list for the course, the district or school is entitled to receive credit under Section 31.1011 in the same manner as if the single textbook were selected. If the total cost for the supplemental textbooks requisitioned by a school district or open-enrollment charter school under Subsection (d)(2) for a course is greater than the limit on the cost under Section 31.025(a) for a single textbook on the conforming list for the course, the district or school may apply credits received under Section 31.1011 toward the difference for the supplemental textbooks.

(f) A school district or open-enrollment charter school that requisitions supplemental textbooks under Subsection (d)(2) shall certify to the agency that the supplemental textbooks, in combination with any other textbooks or supplemental textbooks used by the district or school, cover the essential knowledge and skills identified under Section 28.002 by the State Board of Education for the subject and grade level for which the district or school is requisitioning the supplemental textbooks.

(g) Sections 31.101(b) and (c) do not apply to supplemental textbooks requisitioned under this section.

SECTION 6. Subchapter C, Chapter 31, Education Code, is amended by adding Section 31.1011 to read as follows:

Sec. 31.1011. TEXTBOOK CREDITS. (a) A school district or open-enrollment charter school is entitled to receive credit for textbooks purchased at a cost below the cost limit established under Section 31.025(a).

(b) The credit is an amount equal to the difference between the price paid for a textbook and the cost limit established under Section 31.025(a) for that textbook multiplied by the number of copies of that textbook the school district or open-enrollment charter school purchases.

(c) Fifty percent of the total textbook credit of a school district or open-enrollment charter school shall be credited to the state textbook fund, and 50 percent of the credit shall be credited to the district or school to apply toward the requisition of:

(1) additional textbooks or electronic textbooks that are on the conforming or nonconforming list under Section 31.023 or the components of such textbooks, including any electronic components; or

(2) supplemental textbooks as provided by Section 31.035.

(d) The legislature may appropriate funds for the purpose of increasing the number of textbook credits available for distribution to school districts and open-enrollment charter schools under this section. The appropriation may be designated for a particular subject, for the individual elements of a particular subject, or for textbooks for students who need extra assistance. The appropriation must be provided in an equitable manner.

SECTION 7. Section 13.04, Chapter 5, Acts of the 79th Legislature, 3rd Called Session, 2006, is repealed.

SECTION 8. Section 31.023, Education Code, as amended by this Act, applies only to a textbook for which the State Board of Education issues a proclamation under Subchapter B, Chapter 31, Education Code, on or after the effective date of this Act. A textbook for which the State Board of Education issues a proclamation before the effective date of this Act is governed by the law in effect when the proclamation was issued, and the former law is continued in effect for that purpose.

SECTION 9. Section 31.1011, Education Code, as added by this Act, applies beginning with the 2007-2008 school year.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

HB 273 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 273, A bill to be entitled An Act relating to certain contracts and purchasing procedures for school districts.

Representative Truitt moved to concur in the senate amendments to **HB 273**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1551): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycoc; Bailey; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jackson; Jones; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton;

Phillips; Pickett; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Anderson; Berman; Chisum; Driver; Elkins; Hartnett; Howard, C.; Isett; Keffer; McCall; Moreno; Noriega; Peña; Pierson; Pitts; Talton; Thompson.

STATEMENT OF VOTE

When Record No. 1551 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

Senate Committee Substitute

CSHB 273, A bill to be entitled An Act relating to certain contracts and purchasing procedures for school districts.

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

SECTION 1. Section 34.007(a), Education Code, is amended to read as follows:

(a) A board of county school trustees or a school district board of trustees may establish and operate an economical public school transportation system:

(1) in the county or district, as applicable; or

(2) outside the county or district, as applicable, if the county or school district enters into an interlocal contract as provided by Chapter 791, Government Code.

SECTION 2. The heading to Section 34.008, Education Code, is amended to read as follows:

Sec. 34.008. **CONTRACT WITH TRANSIT AUTHORITY, ~~OR~~ COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.**

SECTION 3. Section 34.008(a), Education Code, is amended to read as follows:

(a) A board of county school trustees or school district board of trustees may contract with a mass transit authority, ~~or a~~ commercial transportation company, or juvenile board for all or any part of a district's public school transportation if the authority, ~~or~~ company, or board:

(1) requires its school bus drivers to have the qualifications required by and to be certified in accordance with standards established by the Department of Public Safety; and

(2) uses only those school buses or mass transit authority buses in transporting 15 or more public school students that meet or exceed safety standards for school buses established under Section 34.002~~, Education Code~~.

SECTION 4. Section 44.031(b), Education Code, is amended to read as follows:

(b) Except as provided by this subchapter, in determining to whom to award a contract, the district shall ~~may~~ consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the district's needs;
- (5) the vendor's past relationship with the district;
- (6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses;
- (7) the total long-term cost to the district to acquire the vendor's goods or services; and
- (8) any other relevant factor specifically listed in the request for bids or proposals.

SECTION 5. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.0331 to read as follows:

Sec. 44.0331. MANAGEMENT FEES UNDER CERTAIN COOPERATIVE PURCHASING CONTRACTS. (a) A school district that enters into a purchasing contract valued at \$25,000 or more under Section 44.031(a)(5), under Subchapter F, Chapter 271, Local Government Code, or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

(b) The amount, purpose, and disposition of any fee described by Subsection (a) must be presented in a written report and submitted annually in an open meeting of the board of trustees of the school district. The written report must appear as an agenda item.

(c) The commissioner may audit the written report described by Subsection (b).

SECTION 6. The change in law made by Section 44.031(b), Education Code, as amended by this Act, and Section 44.0331, Education Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 7 This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

(Pitts now present)

**HB 447 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 447, A bill to be entitled An Act relating to contracts by governmental entities and related professional services and to public works performance and payment bonds.

Representative Callegari moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 447**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 447**: Callegari, chair; Escobar, Macias, Murphy, and W. Smith.

HB 902 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

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

HB 902, A bill to be entitled An Act relating to a student fitness and recreational fee at Texas Woman's University.

Representative Crossover moved to concur in the senate amendments to **HB 902**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1552): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crossover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McClendon; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Crabb; Driver; Elkins; Hancock; Isett; Krusee; Martinez Fischer; McCall; Merritt; Moreno; Talton.

Senate Committee Substitute

CSHB 902, A bill to be entitled An Act relating to a student fitness and recreational fee at Texas Woman's University.

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

SECTION 1. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.5251 to read as follows:

Sec. 54.5251. STUDENT FITNESS AND RECREATIONAL FEE; TEXAS WOMAN'S UNIVERSITY. (a) The board of regents of Texas Woman's University may charge each student enrolled at the university a student fitness and recreational fee in an amount not to exceed:

(1) \$125 for each regular semester or each summer session of more than six weeks; or

(2) \$62.50 for each summer session of six weeks or less.

(b) The fee may be used only for financing, constructing, operating, maintaining, or improving a fitness or recreational facility or for operating a fitness or recreational program at the university.

(c) The fee may not be imposed unless approved by a majority vote of the students of the university who participate in a general student election held for that purpose.

(d) The amount of the fee may not be increased to an amount that exceeds by 10 percent or more the total amount of the fee as last approved by a student vote under Subsection (c) or this subsection unless the increase has been approved by a majority vote of the students enrolled at the university who participate in a general student election called for that purpose.

(e) The chief fiscal officer of the university shall collect the fee and shall deposit the revenue from the fee in an account to be known as the student fitness and recreational account.

(f) The fee is not considered in determining the maximum amount of student services fees that may be charged under Section 54.503.

(g) The board may permit a person who is not enrolled at the university to use a facility financed with revenue from the fee imposed under this section only if:

(1) the person's use will not materially interfere with use of the facility by students of the university;

(2) the person is charged a fee in an amount that is not less than the amount of the student fee or the total amount of the direct and indirect costs to the university of providing for the person's use, except that a charge under this subdivision may not be imposed on a person who uses the facility under an existing lifetime contract with the university for the use of fitness and recreational facilities; and

(3) the person's use will not materially increase the potential liability of the university.

SECTION 2. The change in law made by this Act applies only to fees imposed for a semester or term that begins on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**HB 3140 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3140, A bill to be entitled An Act relating to the review and functions of the Veterans' Land Board.

Representative Flynn moved to concur in the senate amendments to **HB 3140**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1553): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Bonnen; Driver; Elkins; Hill; Isett; McCall; Merritt; Moreno; Ritter; Talton.

Senate Committee Substitute

CSHB 3140, A bill to be entitled An Act relating to the review and functions of the Veterans' Land Board.

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

SECTION 1. Section 161.001(a), Natural Resources Code, is amended by adding Subdivision (8) to read as follows:

(8) "Commission" means the Texas Veterans Commission.

SECTION 2. Section 161.0111, Natural Resources Code, is amended to read as follows:

Sec. 161.0111. SUNSET PROVISION. The Veterans' Land Board is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2019 [2007] and every 12th year after 2019 [2007] are reviewed.

SECTION 3. Subchapter B, Chapter 161, Natural Resources Code, is amended by amending Sections 161.023 through 161.026 and adding Sections 161.0301, 161.034, 161.035, and 161.036 to read as follows:

Sec. 161.023. TRAINING [CONFLICTS OF INTEREST]. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the board;
- (2) the programs, functions, rules, and budget of the board;
- (3) the results of the most recent formal audit of the board;
- (4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
- (5) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office. [An officer, employee, or paid consultant of a veterans' association or of a trade association in the field of real estate sales, brokerage, or development may not be an employee of the board, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a veterans' association or of a trade association in the field of real estate sales, brokerage, or development be an employee of the board grade 17 and over, including exempt employees, according to the position classification schedule under the General Appropriations Act.]

Sec. 161.024. CONFLICTS OF INTEREST [LOBBYIST AS BOARD EMPLOYEE]. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be an appointed member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of real property sales, brokerage, or development; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of real property sales, brokerage, or development.

(c) A person may not be an appointed member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board [~~who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board, may not act as the general counsel to the board~~].

Sec. 161.025. EQUAL PROTECTION FOR BOARD MEMBERS. Appointments to the board shall be made without regard to the race, color, disability [~~handicap~~], sex, religion, age, or national origin of the appointees.

Sec. 161.026. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if an appointed member:

(1) does not have at the time of appointment the qualifications required by Article III, Section 49-b, of the Texas Constitution for appointment to the board;

(2) does not maintain during the service on the board the qualifications required by Article III, Section 49-b, of the Texas Constitution for appointment to the board;

(3) is ineligible for membership under Section 161.024;

(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

(5) ~~(4)~~ is absent from more than one-half of the regularly scheduled board meetings which the member is eligible to attend during each calendar year, except when the absence is excused by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of an appointed member of the board existed.

(c) If the executive secretary has knowledge that a potential ground for removal exists, the executive secretary ~~[he]~~ shall notify the presiding officer [chairman] of the board of the potential [such] ground. The presiding officer [chairman] of the board shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive secretary shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 161.0301. INTERNAL AUDITOR. An internal auditor who performs an audit function for the board shall:

(1) submit to the board any parts of the applicable internal audit plan that relate to the board; and

(2) report to the board regarding the results of any internal audits that relate to the board.

Sec. 161.034. COMPLAINTS. (a) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) The board shall make information available describing its procedures for complaint investigation and resolution.

(c) The board shall periodically notify the complaint parties of the status of the complaint until final disposition.

Sec. 161.035. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

Sec. 161.036. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction, other than disputes governed by Section 161.311.

(b) The board's procedures relating to alternative dispute resolution shall conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

SECTION 4. Subchapter C, Chapter 161, Natural Resources Code, is amended by amending Section 161.061 and adding Sections 161.076 through 161.079 to read as follows:

Sec. 161.061. GENERAL DUTIES OF BOARD. The board shall:

(1) authorize and execute negotiable bonds as provided by law;

(2) provide by resolution for use of the fund in a manner that will effectuate the intent of the constitution and the law;

(3) prescribe the interest rates as provided by law;

(4) provide for the forfeiture of contracts of sale and purchase and resale of forfeited land;

(5) conduct investigations it considers necessary;

(6) obtain and review any components of internal audit plans that relate to board functions and approve those plans as appropriate during public meetings of the board;

(7) obtain and review any internal audit reports that relate to board functions and discuss those reports during public meetings of the board; and

(8) ~~(6)~~ formulate policies and rules necessary and not in conflict with the law to ensure the proper administration and to carry out the intent and purposes of the law.

Sec. 161.076. MEMORANDUM OF UNDERSTANDING. (a) The board shall enter into a memorandum of understanding with the commission. The memorandum of understanding must specify the guidelines, powers, and duties necessary for the board and the commission to coordinate veterans benefits outreach activities.

(b) The memorandum of understanding must address board and commission coordination with respect to the following veterans benefits outreach activities:

(1) operation by the board of a consolidated communications center;

(2) combined direct mail efforts;

(3) sharing veterans contact databases;

(4) dissemination of information through integrated websites and a joint brochure;

(5) veterans benefits seminars; and

(6) any other veterans benefits outreach activity determined by the board and the commission to be appropriate for coordination by those agencies.

(c) The memorandum of understanding must identify the joint and separate powers and duties of the board and the commission as necessary to implement coordinated veterans benefits outreach activities, including powers and duties relating to:

(1) reimbursements for coordinated activities;

(2) the management and funding of a consolidated communications center;

(3) operating expenses associated with the coordinated activities, including expenses relating to office space, printing, and postage;

(4) the development and maintenance of integrated web services regarding veterans benefits and services;

(5) the development and dissemination of a joint brochure regarding veterans benefits and services; and

(6) joint presentations at or sponsorship of veterans benefits seminars.

(d) The commission and the board shall periodically update the memorandum of understanding and continue to explore additional opportunities for coordination between the agencies regarding their respective veterans benefits outreach activities.

(e) The commission and the board shall consider the appropriate use of authorized bond proceeds and federal money to ensure that each agency complies with applicable funding constraints in entering into the memorandum of understanding.

Sec. 161.077. COMMUNICATIONS CENTER. (a) Based on the memorandum of understanding described by Section 161.076, the board shall operate a consolidated communications center to provide information regarding the benefits and services available to veterans of this state, including benefits and services offered by the board and the commission.

(b) In operating the communications center, employees must be knowledgeable about the functions of the center and be able to access information regarding all available veterans benefits and services and shall:

(1) answer the veterans toll-free hotline; and

(2) disseminate to veterans, including newly discharged veterans, information regarding the benefits and services, as appropriate.

Sec. 161.078. WEBSITE; BROCHURE. (a) Based on the memorandum of understanding described by Section 161.076, the board shall integrate web services and develop a hard-copy brochure that provides in a centralized, comprehensive, and simplified format information about all available veterans benefits and services, including benefits and services offered by the board and the commission. In integrating web services, the board shall develop a single entry point to allow public access to information related to all available veterans benefits and services.

(b) This section does not preclude the board or commission from operating additional websites or disseminating other information as determined appropriate by the board or the commission, in accordance with the memorandum of understanding provided under Section 161.076.

Sec. 161.079. BENEFITS SEMINARS. (a) To ensure that the veterans of this state receive uniform information on all veterans benefits and services available, the board and the commission shall:

(1) jointly plan and provide state-sponsored veterans benefits seminars;
and

(2) coordinate the involvement of each agency in seminars hosted for veterans by other organizations.

(b) Planning and coordination under this section must ensure the consistent presentation of benefits and services information by the board or the commission at seminars described by this section.

SECTION 5. Not later than March 1, 2008, the Veterans' Land Board shall enter into a memorandum of understanding with the Texas Veterans Commission as required by Section 161.076, Natural Resources Code, as added by this Act.

SECTION 6. The change in law made by Section 161.023, Natural Resources Code, as amended by this Act, regarding training for members of the Veterans' Land Board does not affect the entitlement of a member serving on the board immediately before September 1, 2007, to continue to serve and function as a member of the board for the remainder of the member's term, unless otherwise removed as provided by law. The change in law described by Section 161.023, Natural Resources Code, applies only to a member appointed or reappointed on or after September 1, 2007.

SECTION 7. (a) The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Veterans' Land Board do not affect the entitlement of a member serving on the Veterans' Land Board immediately before September 1, 2007, to continue to serve and function as a member of the Veterans' Land Board for the remainder of the member's term, unless otherwise removed as provided by law. Those changes in law apply only to a member appointed on or after September 1, 2007.

(b) Section 161.034, Natural Resources Code, as added by this Act, relating to complaints filed with the Veterans' Land Board applies only to a complaint filed on or after September 1, 2007. A complaint filed with the board before September 1, 2007, is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

SECTION 8. On September 1, 2007:

(1) a full-time equivalent position of the Texas Veterans Commission assigned to primarily perform functions related to the operation of the commission's existing call center becomes a full-time equivalent position of the Veterans' Land Board for the purpose of performing those functions;

(2) all money appropriated by the legislature to the Texas Veterans Commission to fund a full-time equivalent position described by Subdivision (1) of this section is transferred to the Veterans' Land Board; and

(3) a function or activity performed by the Texas Veterans Commission in relation to the commission's existing call center is transferred to the Veterans' Land Board to be performed by employees as provided by this Act.

SECTION 9. The Texas Veterans Commission and the Veterans' Land Board shall establish a transition plan for the transfer described in Section 8 of this Act.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

HB 413 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 413, A bill to be entitled An Act relating to erecting certain signs on certain rights-of-way; providing penalties.

Representative Eissler moved to concur in the senate amendments to **HB 413**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1554): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb;

Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Bohac; Driver; Elkins; Howard, C.; Isett; Laubenberg; McCall; Moreno; Talton.

Senate Committee Substitute

CSHB 413, A bill to be entitled An Act relating to erecting certain signs on certain rights-of-way; providing penalties.

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

SECTION 1. Section 392.0325, Transportation Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) This subchapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(d) This subchapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purposes of the utility.

SECTION 2. Subchapter B, Chapter 392, Transportation Code, is amended by adding Section 392.0355 to read as follows:

Sec. 392.0355. CIVIL PENALTY. (a) A person who places or commissions the placement of a sign on a state highway right-of-way that is not otherwise authorized by law may be liable for a civil penalty. The attorney general or a district or county attorney of the county in which the placement of a sign on a state highway right-of-way is alleged to have occurred may sue to collect the penalty.

(b) The amount of the civil penalty is not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter. A separate penalty may be collected for each day a continuing violation occurs.

(c) A penalty collected under this section shall be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

SECTION 3. Section 392.036, Transportation Code, is amended to read as follows:

Sec. 392.036. DEFENSE. It is a defense to prosecution or suit for a violation under this chapter if ~~[Section 392.032 that]~~ at the time of the alleged violation~~[-~~

~~[(1)]~~ the defendant is a candidate for elective public office~~[-]~~ and

~~[(2)]~~ the sign is placed:

~~(1) [(A)]~~ by a person other than the defendant;

~~[(B)]~~ without the knowledge of the defendant; and

~~(2) [(C)]~~ in connection with a campaign for an elective public office by the defendant.

SECTION 4. Section 393.002, Transportation Code, is amended to read as follows:

Sec. 393.002. SIGN PLACEMENT PROHIBITED. Except as provided by Sections ~~[Section]~~ 393.0025 and 393.0026, a person may not place a sign on the right-of-way of a public road unless the placement of the sign is authorized by state law.

SECTION 5. Chapter 393, Transportation Code, is amended by adding Section 393.0026 to read as follows:

Sec. 393.0026. EXCEPTION. (a) This chapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(b) This chapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purposes of the utility.

SECTION 6. Section 393.003(a), Transportation Code, is amended to read as follows:

(a) A sheriff, ~~or~~ constable, or other trained volunteer authorized by the commissioners court of a county may confiscate a sign placed in violation of Section 393.002.

SECTION 7. Section 393.004, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The sheriff, constable, or other trained volunteer authorized by the commissioners court may discard a sign of less than \$25 in value without giving the notice required by Section 393.003.

SECTION 8. Section 393.005(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person places a sign in violation of this chapter ~~[Section 393.002].~~

SECTION 9. Section 393.006, Transportation Code, is amended to read as follows:

Sec. 393.006. DEFENSE. It is a defense to prosecution or suit under this chapter ~~[Section 393.005]~~ that[:

~~[(1)]~~ the defendant was a candidate for an elective public office[;] and

~~[(2)]~~ the sign is placed:

(1) ~~[(A)]~~ by a person other than the defendant;

~~[(B)]~~ without the knowledge of the defendant;] and

(2) ~~[(C)]~~ in connection with a campaign for an elective public office by the defendant.

SECTION 10. Chapter 393, Transportation Code, is amended by adding Section 393.007 to read as follows:

Sec. 393.007. CIVIL PENALTY. (a) A person who places or commissions the placement of a sign on the right-of-way of a public road that is not otherwise authorized by law may be liable to the municipality for a civil penalty. A district or county attorney or a municipal attorney in the jurisdiction in which the placement of a sign on the right-of-way of a public road is alleged to have occurred may sue to collect the penalty.

(b) The amount of the civil penalty is not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter. A separate penalty may be collected for each day a continuing violation occurs.

(c) A penalty collected under this section shall be deposited to the credit of the general fund of the municipality in which the violation occurred if collected by a municipal attorney, or to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

SECTION 11. Section 26.045, Government Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) Except as provided by Subsections ~~[Subsection]~~ (d) and (f), a county court that is in a county with a criminal district court does not have any criminal jurisdiction.

(f) A county court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

SECTION 12. Section 27.031, Government Code, is amended by adding Subsection (c) to read as follows:

(c) A justice court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

SECTION 13. Article 4.11, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) A justice court has concurrent jurisdiction with a municipal court in criminal cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

SECTION 14. (a) The changes in law made by this Act to Chapters 392 and 393, Transportation Code, apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

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

SECTION 15. This Act takes effect September 1, 2007.

(McCall now present)

**HB 479 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 479, A bill to be entitled An Act relating to the succession of the La Joya Water Supply Corporation by the La Joya Special Utility District.

Representative Flores moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 479**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 479**: Flores, chair; Geren, Hamilton, Peña, and Puente.

**HB 921 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 921, A bill to be entitled An Act relating to the sharing of information among state agencies.

Representative Delisi moved to concur in the senate amendments to **HB 921**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1555): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales;

Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Driver; Elkins; Howard, C.; Isett; Moreno; Rose; Talton; Taylor.

Senate Committee Substitute

CSHB 921, A bill to be entitled An Act relating to the sharing of information among state agencies.

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

SECTION 1. Section 2054.096(a), Government Code, is amended to read as follows:

(a) Each agency strategic plan must be consistent with the state strategic plan and include:

(1) a statement of the state agency's goals, objectives, and programs as found in the agency's legislative appropriations request;

(2) a description of the agency's major data bases and their applications;

(3) a description of the agency's information resources management organizations, policies, and practices;

(4) a description of interagency computer networks in which the agency participates;

(5) a statement of the strategic objectives of the agency relating to information resources management for the next five fiscal years, beginning with the fiscal year during which the plan is submitted, with a description of how those objectives help achieve the agency's programs and goals, and a description of how those objectives support and promote the goals and policies of the state strategic plan;

(6) a description of any information resources technology projects proposed by the agency, including:

(A) a statement of how the projects relate to similar projects, as identified by the department, implemented or proposed by other agencies;

(B) a description of any proposed plans for coordinating the projects with other agencies;

(C) a statement of how projects proposed or described under this subsection will provide a return on investment according to guidelines developed by the department; and

(D) a detailed description of the past performance of projects implemented under this subsection;

(7) the status of the agency's quality assurance initiatives for:

(A) security; and

(B) major information resources projects;

(8) a description of measures taken by the agency to comply with department rules and standards;

(9) a statement of how the agency has implemented any applicable data sharing standards developed under Subchapter B, Chapter 113, Health and Safety Code; and

(10) ~~(9)~~ other planning components that the department may prescribe.

SECTION 2. Chapter 113, Health and Safety Code, as added by Chapter 1016, Acts of the 79th Legislature, Regular Session, 2005, is amended by designating Sections 113.001 through 113.014 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. TEXAS HEALTH CARE POLICY COUNCIL

SECTION 3. Chapter 113, Health and Safety Code, as added by Chapter 1016, Acts of the 79th Legislature, Regular Session, 2005, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. INTERAGENCY INFORMATION SHARING PILOT PROGRAM

Sec. 113.051. DEFINITION. In this subchapter, "participating agency" means a state agency that provides social services, mental health services, substance abuse services, or health services.

Sec. 113.052. DEVELOPMENT OF INFORMATION SHARING STANDARDS; PUBLICATION. (a) The council, in consultation with the Department of Information Resources, shall develop standards for the secure sharing of information electronically among participating agencies.

(b) The data sharing standards developed by the council under this section must:

(1) require a participating agency to comply with any federal or state law relating to the security and confidentiality of the information maintained or received by the agency;

(2) ensure the security of personally identifiable information and the protection of personally identifiable information from inappropriate release; and

(3) include strategies for sharing information and procedures for transferring information.

(c) The Department of Information Resources shall publish the standards for data sharing on the department's Internet website and shall notify the presiding officer of each house of the legislature of the publication of the data sharing standards.

(d) The presiding officer of the council may appoint work groups consisting of council members and representatives of participating agencies for any purpose consistent with the duties of the council under this subchapter.

(e) The council shall identify other state agencies with relevant expertise and related projects, and may appoint representatives of those agencies to work groups as appropriate.

Sec. 113.053. SHARING INFORMATION AMONG PARTICIPATING AGENCIES. In developing, procuring, and maintaining electronic and information resource systems, a participating agency shall conform to common client information interchange standards developed by the council whenever possible and practicable to allow for the secure sharing of information among participating agencies to identify and coordinate the provision of necessary services to individuals in the state, while ensuring the protection of personally identifiable information from inappropriate release.

Sec. 113.054. CONTINUITY OF CARE THROUGH INTERAGENCY INFORMATION SHARING. (a) The council shall coordinate the development of a system for ensuring that health care providers serving clients of state programs that provide health and social services receive information about past client encounters and client health information to support the clients' continuity of care, subject to funds appropriated for this purpose.

(b) The system described by Subsection (a) must comply with all state and federal medical privacy laws and regulations.

(c) The initial focus of the interagency information sharing system described by Subsection (a) should be the continuity of care for inmates being admitted to or discharged from Texas Youth Commission facilities.

Sec. 113.055. EVALUATION OF INTERAGENCY INFORMATION SHARING. The council, in consultation with the Department of Information Resources, shall:

(1) analyze and compare how participating agencies with common clients manage and exchange information relating to those clients;

(2) identify and rank in order of priority opportunities to improve an individual's interaction with multiple participating agencies;

(3) emphasize the development of standards that facilitate data sharing without requiring a participating agency to make significant custom modifications to the agency's information system or to incur significant expense; and

(4) emphasize that data shared under this subchapter must comply with any federal or state law relating to confidentiality of the information maintained or received by a participating agency.

Sec. 113.056. USE OF DATA. Information gathered or shared under this subchapter may not be used to enforce Title 8 of the United States Code.

Sec. 113.057. EXPIRATION. This subchapter expires September 1, 2013.

SECTION 4. The Texas Health Care Policy Council shall publish the standards required by Section 113.052, Health and Safety Code, as added by this Act, not later than September 1, 2008.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**HB 1973 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1973, A bill to be entitled An Act relating to the procedure regarding an application for a physician's license or registration.

Representative Delisi moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1973**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1973**: Delisi, chair; Hopson, McReynolds, Truitt, and Zerwas.

**HB 2458 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2458, A bill to be entitled An Act relating to the licensing and regulation of structural pest control by the Department of Agriculture and the abolition of the Texas Structural Pest Control Board.

Representative B. Cook moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2458**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2458**: B. Cook, chair; Eissler, Flynn, Jones, and Ritter.

**HB 2144 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2144, A bill to be entitled An Act relating to the regulation of the practice of public accountancy by certain out-of-state license holders.

Representative Flores moved to concur in the senate amendments to **HB 2144**.

A record vote was requested.

(Isett now present)

The motion to concur in senate amendments prevailed by (Record 1556):
141 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Callegari; Elkins; Howard, C.; Miller; Moreno; Talton.

Senate Committee Substitute

CSHB 2144, A bill to be entitled An Act relating to the regulation of the practice of public accountancy by certain out-of-state license holders.

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

SECTION 1. Sections 901.002(a)(4) and (5), Occupations Code, are amended to read as follows:

(4) "Certified public accountant" means a person who holds a certificate issued under this chapter or who practices in this state under Section 901.462.

(5) "Certified public accountancy firm" means a person who holds a firm license or a firm that practices in this state under Section 901.461.

SECTION 2. Section 901.251(a), Occupations Code, is amended to read as follows:

(a) A person who is an individual may not engage in the practice of public accountancy unless the person holds a certificate issued under this chapter or practices in this state under a privilege under Section 901.462.

SECTION 3. Section 901.351, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) A firm may not provide attest services or use the title "CPA's," "CPA Firm," "Certified Public Accountants," "Certified Public Accounting Firm," or "Auditing Firm" or a variation of one of those titles unless the firm holds a firm license issued under this subchapter or practices in this state under a privilege under Section 901.461.

(a-1) A firm is required to hold a firm license under this subchapter if the firm:

(1) establishes or maintains an office in this state; or

(2) performs for an entity with its principal office in this state:

(A) a financial statement audit or other engagement that is to be performed in accordance with the Statements on Auditing Standards;

(B) an examination of prospective financial information that is to be performed in accordance with the Statements on Standards for Attestation Engagements; or

(C) an engagement that is to be performed in accordance with auditing standards of the Public Company Accounting Oversight Board or its successor.

(b) The board shall grant or renew a firm license to practice as a certified public accountancy firm to:

(1) a firm that applies and demonstrates the necessary qualifications in accordance with this subchapter; or

(2) a firm originally licensed as a certified public accountancy firm in another state that:

(A) is required to hold a firm license under Subsection (a-1) [establishes an office in this state]; and

(B) demonstrates the necessary qualifications in accordance with this subchapter.

SECTION 4. Sections 901.354(b), (f), and (g), Occupations Code, are amended to read as follows:

(b) A certified public accountancy firm may include individuals as owners who are not license holders if:

(1) the firm designates to the board as responsible for the firm's license and the supervision of the firm:

(A) a license holder who resides in this state; or

(B) if the firm is required under Section 901.351(a-1)(2) to hold a firm license, an individual practicing under a privilege under Section 901.462 [to be responsible for the firm's firm license and the supervision of the firm];

(2) each owner who is not a license holder and who is a resident of this state as determined by board rule:

(A) is actively involved in the firm or an affiliated entity;

(B) is of good moral character as demonstrated by a lack of history of dishonest or felonious acts;

(C) holds a baccalaureate or graduate degree conferred by a college or university acceptable to the board or equivalent education as determined by the board;

(D) maintains any professional designation held by the individual in good standing with the appropriate organization or regulatory body that is identified or used in an advertisement, letterhead, business card, or other firm-related communication;

(E) has passed an examination on the rules of professional conduct as determined by board rule;

(F) complies with the rules of professional conduct as determined by board rule; and

(G) maintains professional continuing education applicable to license holders as required by board rule; and

(3) the firm and the owners who are not license holders comply with board disciplinary actions and other requirements the board may impose by rule.

(f) An applicant for issuance or renewal of a firm license under this section must register each office of the firm in this state and show that all attest services performed in this state and each office in this state are under the supervision of a person who holds a certificate issued under this chapter or by another state.

(g) An application for a firm license under this chapter must be made on an affidavit of the owner, an officer, or the general partner of the firm, as applicable, stating:

(1) the name of the firm;

(2) the firm's post office address in this state if the firm has an office in this state;

(3) the address of the firm's principal office;

(4) the address of each office of the firm in this state if the firm has an office in this state;

(5) the name of the resident manager of each office of the firm in this state; and

(6) the name, residence, and post office address of:

(A) each partner, member, shareholder, or other owner; and

(B) if the firm is a partnership, each shareholder of a partner that is a professional corporation.

SECTION 5. Section 901.401(b), Occupations Code, is amended to read as follows:

(b) Each office in this state of a certified public accountancy firm or a firm of public accountants must hold a license issued under this chapter.

SECTION 6. Section 901.405(f), Occupations Code, is amended to read as follows:

(f) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. A [The] person described by this subsection whose license has been revoked under Section 901.502(3) or (4) may obtain a new license under this subsection. A person described by this subsection must pay to the board a fee that is equal to two times the normally required renewal fee for the license and is not subject to additional fees under Section 901.408.

SECTION 7. Section 901.408(a), Occupations Code, is amended to read as follows:

(a) A person, other than a person described by Section 901.405(f), who fails to pay the license renewal fee or the additional fee imposed under Section 901.407, as applicable, and any late fee before the first anniversary of the due date of the renewal fee or additional fee may renew the person's license only by submitting to the board an application for renewal accompanied by payment of:

- (1) all accrued fees, including late fees; and
- (2) the direct administrative costs incurred by the board in renewing the person's license.

SECTION 8. The heading to Subchapter J, Chapter 901, Occupations Code, is amended to read as follows:

SUBCHAPTER J. PRACTICE OF PUBLIC ACCOUNTANCY [BY LICENSE HOLDER]

SECTION 9. Section 901.451(b), Occupations Code, is amended to read as follows:

(b) A person may not provide attest services or assume or use the title "certified public accountants," the abbreviation "CPAs," or any other title, designation, word, letter, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountancy firm unless:

(1) the person holds a firm license issued under this chapter or practices in this state under a privilege under Section 901.461;

(2) ownership of the person complies with the requirements of this chapter and rules adopted by the board; and

(3) the person complies with board rules authorizing the practice.

SECTION 10. Section 901.453(b), Occupations Code, is amended to read as follows:

(b) A person may hold the person out to the public as an "accountant," "auditor," or any combination of those terms or assert that the person has expertise in accounting or auditing only if:

(1) the person holds a license issued under this chapter[;] and

~~[(2)]~~ each of the person's offices in this state for the practice of public accounting is maintained and practices under a firm license as required under Subchapter H; or

(2) the person practices under a privilege under Section 901.461 or 901.462.

SECTION 11. Section 901.454(a), Occupations Code, is amended to read as follows:

(a) A person who is an accountant of another state may use the title under which the accountant is generally known in the state from which the accountant received a certificate, license, or degree~~[- followed by the name of that state,]~~ if:

(1) the person holds a license issued under this chapter or practices in this state under a privilege under Section 901.461 or 901.462; and

(2) any [each] of the person's offices established or maintained in this state for the practice of public accountancy are licensed [is maintained and practices under a firm license as required] under this chapter [Subchapter H].

SECTION 12. Section 901.455, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) A firm that practices under Section 901.461 must use the firm name that it uses in the state in which it is licensed and has its principal place of business.

SECTION 13. Sections 901.456(a), (b), and (f), Occupations Code, are amended to read as follows:

(a) Only a license holder or a person who practices under a privilege under Section 901.461 or 901.462 may issue a report on a financial statement of another person or otherwise perform or offer to perform an attest service.

(b) A person who is not a license holder and who does not practice under a privilege under Section 901.461 or 901.462:

(1) may not use language in any statement related to the financial affairs of a person that is conventionally used by license holders in reports on financial statements;

(2) may prepare financial statements; and

(3) may issue nonattest transmittals or information regarding nonattest transmittals if the transmittals or information do not purport to be in compliance with standards for accounting and review services adopted by the American Institute of Certified Public Accountants or another national accountancy organization recognized by the board.

(f) A license holder or an individual who practices under a privilege under Section 901.462 who performs attest services must provide those services in accordance with standards adopted by the American Institute of Certified Public Accountants or another national accountancy organization recognized by the board.

SECTION 14. Section 901.460(b), Occupations Code, is amended to read as follows:

(b) An individual who is a [A] license holder or practices under a privilege under Section 901.462 [who is an individual] and who is responsible for supervising attest services or signs or authorizes another person to sign an accountant's reports on financial statements on behalf of a certified public accountancy firm must meet the competency requirements of the professional standards that apply to those services.

SECTION 15. Subchapter J, Chapter 901, Occupations Code, is amended by adding Sections 901.461 and 901.462 to read as follows:

Sec. 901.461. PRACTICE BY CERTAIN OUT-OF-STATE FIRMS. (a) A certified public accountancy firm that is licensed and has its primary place of business in another state and is not required to hold a firm license under Section 901.351(a-1) may practice in this state without a firm license or notice to the board if the firm's practice in this state is performed by an individual who holds a license under this chapter or who practices under a privilege under Section 901.462.

(b) A firm described by Subsection (a) may exercise all the practice privileges of a firm license holder, except that the firm:

(1) may not perform the services described by Section 901.351(a-1);
and

(2) may perform the services described by Sections 901.002(a)(1)(B) and (D) for an entity with its home office in this state only if:

(A) the firm meets the requirements of Sections 901.354(a) and (b);

(B) the firm complies with the board's peer review program under Section 901.159; and

(C) the services are performed by an individual who holds a license under this chapter or practices under a privilege under Section 901.462.

(c) A firm practicing under a privilege under this section, as a condition of the privilege of practicing without a firm license:

(1) is subject to the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) must comply with this chapter and board rules; and

(3) is considered to have appointed the regulatory agency of the state that issued the firm's license as the firm's agent on whom process may be served in any action or proceeding by the board against the firm.

(d) A firm practicing under a privilege under this section shall promptly cease offering or rendering professional services in this state if the firm's license to practice as a certified public accountancy firm in the state in which the firm's primary place of business is no longer valid.

Sec. 901.462. PRACTICE BY OUT-OF-STATE PRACTITIONER WITH SUBSTANTIALLY EQUIVALENT QUALIFICATIONS. (a) An individual who holds a certificate or license as a certified public accountant issued by another state and whose principal place of business is not in this state may exercise all the privileges of certificate and license holders of this state without obtaining a certificate or license under this chapter if:

(1) the National Association of State Boards of Accountancy's National Qualification Appraisal Service has verified that the other state has education, examination, and experience requirements for certification or licensure that are comparable to or exceed the requirements for licensure as a certified public accountant of The American Institute of Certified Public Accountants/National Association of State Boards of Accountancy Uniform Accountancy Act and the board determines that the licensure requirements of that Act are comparable to or exceed the licensure requirements of this chapter; or

(2) the individual obtains from the National Association of State Boards of Accountancy's National Qualification Appraisal Service verification that the individual's education, examination, and experience qualifications are comparable to or exceed the requirements for licensure as a certified public accountant of The American Institute of Certified Public Accountants/National Association of State Boards of Accountancy Uniform Accountancy Act and the board determines that the licensure requirements of that Act are comparable to or exceed the licensure requirements of this chapter.

(b) An individual who meets the requirements of Subsection (a)(1) or (2) and who offers or renders professional services in person or by mail, telephone, or electronic means may practice public accountancy in this state without notice to the board.

(c) An individual practicing under the privilege under this section, as a condition of the privilege of practicing without a certificate or license:

(1) is subject to the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) must comply with this chapter and the board's rules; and

(3) is considered to have appointed the regulatory agency of the state that issued the individual's certificate or license as the agent on whom process may be served in any action or proceeding by the board against the individual.

(d) An individual who practices under a privilege under this section shall promptly cease offering or rendering professional services in this state if the individual's certificate or license in the state of the individual's principal place of business is no longer valid.

(e) An individual practicing under this section must practice through a firm that holds a license under this chapter if, for an entity with its principal office in this state, the individual performs:

(1) a financial statement audit or other engagement that is to be performed in accordance with the Statements on Auditing Standards;

(2) an examination of prospective financial information that is to be performed in accordance with the Statements on Standards for Attestation Engagements; or

(3) an engagement that is to be performed in accordance with auditing standards of the Public Company Accounting Oversight Board or its successor.

SECTION 16. Sections 901.356 and 901.412, Occupations Code, are repealed.

SECTION 17. This Act takes effect September 1, 2007.

HB 2345 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2345, A bill to be entitled An Act relating to the creation of the Texas Organic Agricultural Industry Advisory Board.

Representative Anderson moved to concur in the senate amendments to **HB 2345**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1557): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo;

Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Harper-Brown.

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

Absent — Callegari; Driver; Elkins; Miller; Moreno; Mowery; Talton.

Senate Committee Substitute

CSHB 2345, A bill to be entitled An Act relating to the creation of the Texas Organic Agricultural Industry Advisory Board.

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

SECTION 1. Title 3, Agriculture Code, is amended by adding Chapter 50C to read as follows:

CHAPTER 50C. TEXAS ORGANIC AGRICULTURAL INDUSTRY ADVISORY BOARD

Sec. 50C.001. DEFINITION. In this chapter, "board" means the Texas Organic Agricultural Industry Advisory Board.

Sec. 50C.002. COMPOSITION. (a) The board is composed of the following 13 members appointed by the commissioner:

- (1) four members who produce organic agricultural products;
- (2) two members who are retail sellers of organic agricultural products;
- (3) one member who distributes organic agricultural products;
- (4) one member who processes organic agricultural products;
- (5) one member who represents a Texas trade association that represents the organic agricultural industry;
- (6) one member who represents the Texas Cooperative Extension;
- (7) one technical advisor member who is employed by an institution of higher education, as defined by Section 61.003, Education Code, or government agency as a researcher or instructor:

(A) in the field of organic agriculture products or sustainable agriculture; or

(B) who has technical expertise in soil biology, agronomy, entomology, horticulture, or organic farming systems;

(8) one member who represents the public; and

(9) one representative from the department.

(b) The board shall elect a presiding officer from among its members.

(c) Members of the board serve staggered terms of four years, with either six or seven members' terms, as applicable, expiring February 1 of each odd-numbered year. Members may be reappointed at the end of a term.

(d) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the board.

(e) Service on the board by a state officer or employee is an additional duty of the member's office or employment. Members of the board are not entitled to compensation or reimbursement of expenses.

Sec. 50C.003. DUTIES. The board shall:

(1) assist the department in:

(A) assessing the state of the organic agricultural products industry in this state;

(B) developing recommendations to the commissioner and the legislature to promote and expand the organic agricultural products industry in this state;

(C) identifying and obtaining grants and gifts to promote and expand the organic agricultural products industry in this state; and

(D) developing a statewide organic agricultural products education and awareness campaign that:

(i) utilizes the Texas Cooperative Extension's educational programs and channels of distribution, when appropriate;

(ii) is consistent with Sections 2.002 and 12.002 and any department policies relating to the promotion of Texas agriculture and agricultural products; and

(iii) does not refer negatively to any other agriculture process that is used or to any agricultural product that is grown or sold in this state; and

(2) review and provide guidance on rules impacting the organic agricultural products industry in this state.

Sec. 50C.004. MEETINGS. The board shall meet at least once each year and may meet at other times considered necessary by the commissioner.

Sec. 50C.005. STAFF. The board is administratively attached to the department. The department shall provide the board with the staff necessary to carry out its duties under this chapter.

SECTION 2. This Act takes effect September 1, 2007.

HB 3827 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3827, A bill to be entitled An Act relating to the authority of the governing board of a junior college district to hold an open or closed meeting by telephone conference call.

Representative Morrison moved to concur in the senate amendments to **HB 3827**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1558): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Giddings; Gonzales; Gonzalez

Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Driver; Elkins; Geren; Moreno; Mowery; Talton.

Senate Committee Substitute

CSHB 3827, A bill to be entitled An Act relating to the authority of the governing board of a junior college district to hold an open or closed meeting by telephone conference call.

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

SECTION 1. Subchapter F, Chapter 551, Government Code, is amended by adding Section 551.122 to read as follows:

Sec. 551.122. GOVERNING BOARD OF JUNIOR COLLEGE DISTRICT: QUORUM PRESENT AT ONE LOCATION. (a) This chapter does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present and shall be tape-recorded. The tape recording shall be made available to the public.

(e) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated before the party speaks.

(f) The authority provided by this section is in addition to the authority provided by Section 551.121.

(g) A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Section 130.0845, Education Code.

SECTION 2. The heading to Section 551.121, Government Code, is amended to read as follows:

Sec. 551.121. GOVERNING BOARD OF INSTITUTION OF HIGHER EDUCATION; BOARD FOR LEASE OF UNIVERSITY LANDS: SPECIAL MEETING FOR IMMEDIATE ACTION.

SECTION 3. Section 551.121(c), Government Code, is amended to read as follows:

(c) A meeting held by telephone conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing board or Board for Lease of University Lands is difficult or impossible.

SECTION 4. The change in law made by this Act applies only to a meeting of the governing board of a junior college district for which notice is given under Chapter 551, Government Code, on or after the effective date of this Act.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

LEAVES OF ABSENCE GRANTED

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

Driver on motion of Krusee.

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

Latham on motion of Krusee.

ADDRESS BY REPRESENTATIVE HERRERO

Good morning, Mr. Speaker, members, I have some sad news to report. Friday afternoon, as we were all getting ready to leave home, I received a phone call in my office from a mother who called to let me know that her son would not be coming home. The call was received about 1 p.m. Friday afternoon. She was crying, obviously, and she called to let me know that her son, Army Staff Sergeant Anselmo Martinez III, who she lovingly calls B. J., short for Baby Junior, that he and two of his comrades were killed when the armored vehicle they were in hit an explosive device, killing all of them. This happened in Ba'qubah, Iraq, taking the lives of three soldiers, one of those being Army Staff Sergeant Anselmo Martinez, who was just 25-years-old. He is survived by his spouse, Christina Martinez, who will now have the responsibility of being a mother, and a father-figure, to two daughters, ages 7 and 5. His mother called me because she said, "he's from Robstown and you being from Robstown, I wanted you to be one of the first ones to know." He graduated from the same high school I did, graduated 10 years after I did, in 1998. He joined the army in 2002, where he was sent to be part of the first calvary division and stationed in Fort Hood. His

mother has told me and everyone she talks to, obviously that she's proud of her son, but that she will miss him. She will miss the fact that he was funny, sweet, and polite, and he was someone who loved to fish.

So members, as we carry on our business, let us not forget the men and women that are still fighting for us to debate, to visit our families, and to spend our time fishing, and laughing, and let us not forget to be polite to one another as we debate on important issues.

I ask that you join me in a moment of silence in honor of the fallen soldiers, Anselmo Martinez III, Baby Junior, and his comrades. Thank you, members. I ask that you will keep him, his comrades, and his family in your thoughts and prayers.

(Talton now present)

HB 44 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 44, A bill to be entitled An Act relating to the restoration of good conduct time forfeited during a term of imprisonment.

Representative Hodge moved to concur in the senate amendments to **HB 44**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1559): 127 Yeas, 10 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Berman; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Anderson; Aycock; Bohac; Brown, B.; Harper-Brown; Laubenberg; O'Day; Patrick; Paxton; Phillips.

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

Absent, Excused — Driver; Latham.

Absent — Chisum; Delisi; Elkins; Hancock; Keffer; Moreno; Noriega; Thompson.

STATEMENT OF VOTE

When Record No. 1559 was taken, I was in the house but away from my desk. I would have voted yes.

Thompson

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

Amend **HB 44** (Senate committee printing) in SECTION 1 of the bill, in amended Subsection (a), Section 498.004, Government Code (page 1, line 19), between "under this subsection" and the period, by inserting "unless the inmate is serving a sentence for an offense listed in Section 508.149(a)".

HB 587 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 587, A bill to be entitled An Act relating to the recording of certain information by the clerk of a court.

Representative Gonzalez Toureilles moved to concur in the senate amendments to **HB 587**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1560): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Driver; Latham.

Absent — Elkins; Moreno; Noriega; Vo.

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

Amend **HB 587** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 20.02, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h) A subpoena or summons relating to a grand jury proceeding or investigation must be kept secret to the extent and for as long as necessary to prevent the unauthorized disclosure of a matter before the grand jury. This subsection may not be construed to limit a disclosure permitted by Subsection (c), (d), or (e).

**HB 1090 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1090, A bill to be entitled An Act relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues, waste, debris, or crops.

Representative Swinford moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1090**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1090**: Swinford, chair; Christian, Hopson, P. King, and Heflin.

REMARKS ORDERED PRINTED

Representative Gonzalez Toureilles moved to print remarks by Representative Herrero and Representative Hardcastle.

The motion prevailed.

**HB 1355 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1355, A bill to be entitled An Act relating to dog attacks on persons; creating an offense.

HB 1355 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BURNAM: Thank you, Mr. Speaker. This is for legislative intent purposes and it's the longest question. Fort Worth has established Fort Woof Dog Park, which was named the best dog park in the United States in 2006. Fort Woof is one of the most used parks in Fort Worth and has caused the crime rate to drop dramatically in Gateway Park where it is located because of the increased usage. Fort Woof Dog Park was established by the city of Fort Worth as a location where dogs may be off leash, users assume the risks. Very rarely, people get bit in dog parks. Several other cities including Houston, Dallas, North Richland Hills, Grand Prairie, and Austin have established dog parks, that is, fenced areas where dogs are allowed to run off leash. I understand that Georgetown is in the process of establishing a dog park.

Several users of Fort Woof Dog Park have a bone to pick with **HB 1355**.

REPRESENTATIVE GATTIS: Hold on. Did Eissler write this for you?

BURNAM: No, the founder of Fort Woof Dog Park wrote this question. Several users of Fort Woof Dog Park have a bone to pick with **HB 1355** because they fear that if they let their dog off leash at a dog park that they might be subject to a felony just because they let their dog off leash and their dog bites someone leaving a scar, or a cigarette, which a prosecutor could argue constitutes serious bodily injury. So I would like to clarify the legislative intent of **HB 1355**. **HB 1355** states that a person commits an offense if they negligently fail to restrain a dog. The term "negligence" focuses on reasonableness of one's conduct. It is my understanding that under the legislative intent of **HB 1355** that failing to restrain a dog at a city dog park would not constitute criminal negligence because a city has exempted the dog park from its leash laws, thus excusing dog owners from restraining a dog by leash. In other words, a person is not negligent under **HB 1355** because of the mere fact that he or she lets their dog off leash at a city designated dog park because that is what reasonable people are supposed to do at a dog park. Is my understanding correct?

GATTIS: I hate to say this in this way, but the determinations would be on the fact of each case. If somebody showed up at a dog park with a dog that never had any type of aggressive behavior, any types of those types of tendencies, and they let their dog off the leash, type of deal, and for some reason somebody got bit, I would imagine that this bill would not apply in that case. That being that most of the owners there do assume the risk in certain instances when they put themselves in those scenarios and those types of situations. If you had a dog that had aggressive tendencies, was well-known to have those aggressive tendencies, you walk into a dog park and turn that dog off a leash, I think you would be potentially subject to that.

So each case would be somewhat on its own. I know that most of the concern is that in a dog park situation, you get two dogs and they start getting a little rambunctious with one another, start to fight, you reach in and try to separate them, you may get bit. We and the senate changed the definition of serious bodily injury for those, for a dog that had never been declared dangerous, to be that definition, which is found in the Penal Code, which is a significantly

higher standard, as opposed to the serious bodily injury that was found in the Health and Safety Code, which was the definition that this bill had when it left the house. That type of injury found in the Penal Code would require a situation where somebody's actual life has been put at risk. I would think that just a bite with a small scar, something like that, would not rise to that occasion. However, if that scar is along the jugular of their neck, I would think that it probably would. So I think the facts really bear in mind in those cases, but I would think in 99.99 percent of the cases, I think your friend would be safe, and most people in the dog parks would be safe.

REMARKS ORDERED PRINTED

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

The motion prevailed.

Representative Gattis moved to concur in the senate amendments to **HB 1355**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1561): 135 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Berman; Callegari; Hilderbran; Laubenberg; Miller.

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

Absent, Excused — Driver; Latham.

Absent — Davis, J.; Elkins; Giddings; Moreno; Mowery; Noriega.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1561. I intended to vote yes.

Berman

When Record No. 1561 was taken, my vote failed to register. I would have voted yes.

Giddings

I was shown voting no on Record No. 1561. I intended to vote yes.

Hilderbran

Senate Committee Substitute

CSHB 1355, A bill to be entitled An Act relating to dog attacks on persons; creating an offense.

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

SECTION 1. This Act may be cited as "Lillian's Law" in memory of Mrs. Lillian Stiles. This Act is also dedicated to the memory of Mrs. Fannie Pearl Pharms, Ms. Cheryl Marie Floyd, and all other victims of unprovoked dog attacks.

SECTION 2. The heading to Subchapter A, Chapter 822, Health and Safety Code, is amended to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS; DOGS THAT ATTACK PERSONS OR ARE A DANGER TO PERSONS

SECTION 3. Section 822.001, Health and Safety Code, is amended by adding Subdivisions (3) and (4) to read as follows:

(3) "Dangerous dog," "dog," "owner," and "secure enclosure" have the meanings assigned by Section 822.041.

(4) "Secure" means to take steps that a reasonable person would take to ensure a dog remains on the owner's property, including confining the dog in an enclosure that is capable of preventing the escape or release of the dog.

SECTION 4. Subchapter A, Chapter 822, Health and Safety Code, is amended by adding Section 822.0011 to read as follows:

Sec. 822.0011. APPLICATION TO CERTAIN PROPERTY. For purposes of this subchapter, a person's property includes property the person is entitled to possess or occupy under a lease or other agreement.

SECTION 5. Section 822.005, Health and Safety Code, is amended to read as follows:

Sec. 822.005. ATTACK BY DOG. (a) A person commits an offense if the person is the owner of a dog and the person:

(1) with criminal negligence, as defined by Section 6.03, Penal Code, fails to secure the dog and the dog makes an unprovoked attack on another person that occurs at a location other than the owner's real property or in or on the owner's motor vehicle or boat and that causes serious bodily injury, as defined by Section 1.07, Penal Code, or death to the other person; or

(2) knows the dog is a dangerous dog by learning in a manner described by Section 822.042(g) that the person is the owner of a dangerous dog, and the dangerous dog makes an unprovoked attack on another person that occurs

at a location other than a secure enclosure in which the dog is restrained in accordance with Subchapter D and that causes serious bodily injury, as defined by Section 822.001, or death to the other person.

(b) An offense under this section is a felony of the third degree unless the attack causes death, in which event the offense is a felony of the second degree.

(c) If a person is found guilty of an offense under this section, the court may order the dog destroyed by a person listed in Section 822.004.

(d) A person who is subject to prosecution under this section and under any other law may be prosecuted under this section, the other law, or both. ~~PROVOCATION OR LOCATION OF ATTACK IRRELEVANT. Except as provided by Section 822.003(f), this subchapter applies to any dog that causes a person's death or serious bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death or serious bodily injury occurred.~~

SECTION 6. Subchapter A, Chapter 822, Health and Safety Code, is amended by adding Sections 822.006 and 822.007 to read as follows:

Sec. 822.006. DEFENSES. (a) It is a defense to prosecution under Section 822.005(a) that the person is a veterinarian, a veterinary clinic employee, a peace officer, a person employed by a recognized animal shelter, or a person employed by this state or a political subdivision of this state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.

(b) It is a defense to prosecution under Section 822.005(a) that the person is an employee of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes and is training or using the dog in connection with the person's official capacity.

(c) It is a defense to prosecution under Section 822.005(a) that the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Occupations Code, and has temporary ownership, custody, or control of the dog in connection with that position.

(d) It is a defense to prosecution under Section 822.005(a) that the person is disabled and uses the dog to provide assistance, the dog is trained to provide assistance to a person with a disability, and the person is using the dog to provide assistance in connection with the person's disability.

(e) It is a defense to prosecution under Section 822.005(a) that the person attacked by the dog was at the time of the attack engaged in conduct prohibited by Chapters 19, 20, 21, 22, 28, 29, and 30, Penal Code.

(f) It is an affirmative defense to prosecution under Section 822.005(a) that, at the time of the conduct charged, the person and the dog are participating in an organized search and rescue effort at the request of law enforcement.

Sec. 822.007. LOCAL REGULATION OF DOGS. This subchapter does not prohibit a municipality or county from adopting leash or registration requirements applicable to dogs.

SECTION 7. Sections 822.044(b) and (c), Health and Safety Code, are amended to read as follows:

(b) An offense under this section is a Class C misdemeanor~~[, unless the attack causes serious bodily injury or death, in which event the offense is a Class A misdemeanor].~~

(c) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person listed in Section 822.004 [822.003].

SECTION 8. Section 822.044(d), Health and Safety Code, is repealed.

SECTION 9. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

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

SECTION 10. This Act takes effect September 1, 2007.

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

Amend **CSHB 1355** (Senate committee printing) in SECTION 6 of the bill, following proposed Subsection (f), Section 822.006, Health and Safety Code (page 2, between lines 35 and 36), by inserting the following appropriately lettered subsection:

() It is an affirmative defense to prosecution under Section 822.005(a) that, at the time of the conduct charged, the person and the dog are participating in an organized dog show or event sponsored by a nationally recognized or state-recognized kennel club.

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

Amend **CSHB 1355** (Senate committee printing) in SECTION 6 of the bill, following proposed Subsection (f), Section 822.006, Health and Safety Code (page 2, between lines 35 and 36), by inserting the following appropriately lettered subsection:

() It is an affirmative defense to prosecution under Section 822.005(a) that, at the time of the conduct charged, the person and the dog are engaged in:

(1) a lawful hunting activity; or

(2) a farming or ranching activity, including herding livestock, typically performed by a working dog on a farm or ranch.

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

Amend **CSHB 1355** (Senate committee printing) in SECTION 6 of the bill, following proposed Subsection (f), Section 822.006, Health and Safety Code (page 2, between lines 35 and 36), by inserting the following appropriately lettered subsection:

() It is a defense to prosecution under Section 822.005(a) that, at the time of the conduct charged, the person's dog was on a leash and the person:

(1) was in immediate control of the dog; or

(2) if the person was not in control of the dog, the person was making immediate and reasonable attempts to regain control of the dog.

(Moreno now present)

**HB 1610 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1610, A bill to be entitled An Act relating to the requirement that a judge release on community supervision certain defendants convicted of certain state jail felonies.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1610**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1610**: Madden, chair; Hodge, McReynolds, Jones, and Peña.

**HB 1634 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1634, A bill to be entitled An Act relating to incentives for the film, television, and multimedia production industries.

Representative Dukes moved to concur in the senate amendments to **HB 1634**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1562): 141 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.;

Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler.

Nays — Howard, C.

Present, not voting — Mr. Speaker.

Absent, Excused — Driver; Latham.

Absent — Burnam; Deshotel; Elkins; Peña; Zerwas.

Senate Committee Substitute

CSHB 1634, A bill to be entitled An Act relating to incentives for the film, television, and multimedia production industries.

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

SECTION 1. The heading to Subchapter B, Chapter 485, Government Code, is amended to read as follows:

SUBCHAPTER B. MOVING IMAGE [FILM] INDUSTRY INCENTIVE PROGRAM

SECTION 2. Section 485.021, Government Code, is amended to read as follows:

Sec. 485.021. DEFINITIONS. In this subchapter:

(1) "In-state spending" means the amount of money spent in Texas by a production company during the production and completion of a moving image project, including the amount spent on wages to Texas residents. The term does not include wages described by Section 485.024(b).

(2) "Moving image project" [“~~Filmed entertainment~~”] means a visual and sound production, including a[

~~(A)~~ film,[

~~(B)~~ television program,[

~~(C)~~ national or multistate commercial. The term does not include a production that is obscene, as defined by Section 43.21, Penal Code.

(3) ~~(2)~~ "Production company" includes a film production company, television production company, or film and television production company.

(4) ~~(3)~~ "Texas resident" means an individual who has resided in Texas since the 120th ~~60th~~ day before the first day of principal photography on a moving image project ~~[a filmed entertainment]~~.

(5) ~~(4)~~ "Underused area" includes any area of this state other than the metropolitan areas of Austin~~[, Houston,]~~ or Dallas ~~[Dallas Fort Worth]~~.

SECTION 3. The heading to Section 485.022, Government Code, is amended to read as follows:

Sec. 485.022. MOVING IMAGE [FILM] INDUSTRY INCENTIVE PROGRAM.

SECTION 4. Section 485.022, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (d), (e), and (f) to read as follows:

(a) The office shall administer a grant program for production companies that produce moving image projects ~~[filmed entertainments]~~ in this state, to the extent that gifts, grants, donations, or other money, including appropriations, are made available to the office for that purpose.

(b) The office shall develop a procedure for the submission of grant applications and the awarding of grants under this subchapter. The procedure must include provisions relating to:

(1) methods by which an individual's Texas residency as described by Section 485.021(4) ~~[485.021(3)]~~ can be proved; and

(2) requirements for the submission, before production of a moving image project ~~[filmed entertainment]~~ begins, of:

(A) an estimate of total in-state spending;

(B) the shooting script or story board, as applicable;

(C) the estimated number of jobs for cast and production crew during the production and completion of a moving image project; and

(D) any other information considered useful and necessary by the office for an adequate and accurate analysis of a production company's in-state spending ~~[wages that will be paid to Texas residents]~~.

(d) The office may award a grant to a production company only based on a production company's in-state spending that the office verifies as having been completed.

(e) The office is not required to act on any grant application and may deny an application because of inappropriate content or content that portrays Texas or Texans in a negative fashion, as determined by the office, in a moving image project. In determining whether to act on or deny a grant application, the office shall consider general standards of decency and respect for the diverse beliefs and values of the citizens of Texas.

(f) Before a grant is awarded under this subchapter, the office shall:

(1) require a copy of the final script; and

(2) determine if any substantial changes occurred during production on a moving image project to include content described by Subsection (e).

SECTION 5. Section 485.023, Government Code, is amended to read as follows:

Sec. 485.023. QUALIFICATION. To qualify for a grant under this subchapter:

(1) [7] a production company must have spent [pay] a minimum of:

(A) \$1 million in in-state spending ~~[(1) \$500,000 in wages to Texas residents]~~ for a film or television program; or

(B) \$100,000 in in-state spending ~~[(2) \$50,000 in wages to Texas residents]~~ for a commercial or series of commercials;

(2) at least 70 percent of the production crew, actors, and extras for a moving image project must be Texas residents;

(3) at least 80 percent of the moving image project must be filmed in Texas; and

(4) a production company must submit to the office an expended budget, in a format prescribed by the office, that reflects all in-state spending and includes all receipts, invoices, pay orders, and other documentation considered necessary by the office to accurately determine the amount of a production company's in-state spending that has occurred.

SECTION 6. Section 485.024, Government Code, is amended to read as follows:

Sec. 485.024. GRANT. (a) Except as provided by Section 485.025, a grant under this subchapter may not exceed the lesser of five[~~+~~

[(1) 20] percent of the total amount of a production company's in-state spending [wages paid to Texas residents] for a moving image project [filmed entertainment]; or:

(1) \$2 million for a film;

(2) \$2.5 million for a television program; or

(3) \$200,000 for a commercial or series of commercials
[(2) \$750,000].

(b) In calculating a grant amount under Section 485.025 or the amount of in-state spending for purposes of Subsection (a), the office may not include wages of persons, including an actor or director, employed in the production of a moving image project [filmed entertainment] that are:

(1) a major part of the production costs of the project [entertainment], as determined by the office; and

(2) negotiated or spent before production begins.

SECTION 7. Subchapter B, Chapter 485, Government Code, is amended by adding Sections 485.027 and 485.028 to read as follows:

Sec. 485.027. WORKFORCE TRAINING AND PERFORMANCE MEASURES. (a) The office may contract with public junior colleges, as defined by Section 61.003, Education Code, or Texas nonprofit organizations to create a moving image industry personnel training program for developing and expanding the workforce for moving image projects in Texas.

(b) The office shall develop appropriate performance measures for training programs created under this section.

(c) The office and the Texas Higher Education Coordinating Board shall cooperate to develop performance measures that are appropriate for classroom instruction before the office may spend money to implement this section.

(d) The office shall consult with the Texas Workforce Commission to collect and compile data on the status of the moving image industry employment base in Texas.

Sec. 485.028. FILM ARCHIVE PROGRAM. (a) The office may contract with an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, to provide technical resources regarding archiving moving image projects, improving public access to the moving image heritage of Texas, including campaign material, and discovering, preserving, and collecting digital copies of the moving image heritage of Texas. A contract entered into under this section must require an organization to:

(1) provide service to the public;

(2) assist private organizations statewide; and

(3) provide technical assistance with archiving and preserving moving images and digitization work.

(b) The office by rule may develop policies and procedures for coordinating with state agencies to implement this section.

(c) The office shall establish performance measures for contractors that enter into a contract under this section.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 1634** (Senate committee printing) as follows:

(1) Strike the recital to SECTION 6 of the bill (page 2, lines 47-48) and substitute "Sections 485.024 and 485.025, Government Code, are amended to read as follows:".

(2) In SECTION 6 of the bill, at the end of Subsection (b), Section 485.024, Government Code (page 2, between lines 66 and 67), insert the following:

Sec. 485.025. ADDITIONAL GRANT FOR UNDERUSED AREAS. In addition to the grant calculated under Section 485.024, a production company that spends at least 25 percent of a moving image project's [~~filmed entertainment's~~] filming days in an underused area is eligible for an additional grant in an amount equal to 1.25 [~~five~~] percent of the total amount of the production company's in-state spending for the moving image project [~~wages paid to Texas residents for the filmed entertainment~~].

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

Amend **CSHB 1634** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill (page 1, lines 28 and 29), between "national or multistate commercial" and ".", insert ", or digital interactive media production".

(2) In SECTION 2 of the bill (page 1, lines 32 and 33), between "television production company," and "or film and television production company.", insert "digital interactive media production company,".

(3) In SECTION 6 of the bill, (page 2, lines 57 and 58), between "commercials" and "~~[(2) \$750,000]~~.", insert "; or (4) \$250,000 for a digital interactive media production".

HB 1720 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1720, A bill to be entitled An Act relating to the counties eligible to create a county assistance district that may impose a sales and use tax.

Representative McReynolds moved to concur in the senate amendments to **HB 1720**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1563): 132 Yeas, 9 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Brown, B.; Callegari; Corte; Hilderbran; Howard, C.; Macias; Miller; Talton; Zedler.

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

Absent, Excused — Driver; Latham.

Absent — Coleman; Deshotel; Elkins; Mowery; Peña.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1563. I intended to vote no.

F. Brown

I was shown voting yes on Record No. 1563. I intended to vote no.

Isett

Senate Committee Substitute

CSHB 1720, A bill to be entitled An Act relating to the counties eligible to create a county assistance district that may impose a sales and use tax.

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

SECTION 1. Section 387.002, Local Government Code, is repealed.

SECTION 2. Section 387.003, Local Government Code, is amended by amending Subsections (a), (b), and (f) and adding Subsections (b-1), (g), and (h) to read as follows:

(a) The commissioners court of the county may call an election on the question of creating a county assistance district under this chapter to perform the following functions in the district:

- (1) the construction, maintenance, or improvement of roads or highways;
- (2) the provision of law enforcement and detention services;
- (3) the maintenance or improvement of libraries, museums, parks, or other recreational facilities;
- (4) the provision of services that benefit the public health or welfare, including the provision of firefighting and fire prevention services; or
- (5) the promotion of economic development and tourism.

(b) The order calling the election must:

(1) define the boundaries of the district to include any portion of the county in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would not exceed two percent [that is not located in an authority governed by Chapter 451 or 452, Transportation Code]; and

(2) call for the election to be held within those boundaries.

(b-1) If the proposed district includes any territory of a municipality, the commissioners court shall send notice by certified mail to the governing body of the municipality of the commissioners court's intent to create the district. If the municipality has created a development corporation under Section 4A or 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), the commissioners court shall also send the notice to the board of directors of the corporation. The commissioners court must send the notice not later than the 60th day before the date the commissioners court orders the election. The governing body of the municipality may exclude the territory of the municipality from the proposed district by sending notice by certified mail to the commissioners court of the governing body's desire to exclude the municipal territory from the district. The governing body must send the notice not later than the 45th day after the date the governing body receives notice from the commissioners court under this subsection. The territory of a municipality that is excluded under this subsection may subsequently be included in the district in an election held under Subsection (f) with the consent of the municipality.

(f) The commissioners court may call an election to be held in an area of the county that is not located in a district created under this section to determine whether the area should be included in the district and whether the district's sales and use tax should be imposed in the area. An election may not be held in an area in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would exceed two percent [that is included in an authority governed by Chapter 451 or 452, Transportation Code].

(g) The area in which an election is held under Subsection (f) is included in the district and the sales and use tax is imposed if a majority of the votes received at the election favor inclusion in the district and imposition of the sales and use tax.

(h) If more than one election to authorize a local sales and use tax is held on the same day in the area of a proposed district or an area proposed to be added to a district and if the resulting approval by the voters would cause the imposition of a local sales and use tax in any area to exceed two percent, only a tax authorized at an election under this section may be imposed.

SECTION 3. The change in law made by this Act by adding Section 387.003(b-1), Local Government Code, applies only to an election ordered on or after the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

HB 536 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 536, A bill to be entitled An Act relating to the consent required for a municipality to annex a water or sewer district.

Representative Truitt moved to concur in the senate amendments to **HB 536**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1564): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Driver; Latham.

Absent — Elkins; Harless; Mowery.

Senate Committee Substitute

CSHB 536, A bill to be entitled An Act relating to the consent required for a municipality to annex a water or sewer district.

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

SECTION 1. Section 43.071, Local Government Code, is amended by adding Subsection (g) to read as follows:

(g) For an annexation of an area in a water or sewer district that is wholly or partly in the overlapping extraterritorial jurisdiction of two or more municipalities, any one of those municipalities is not required to obtain under Section 42.023 the written consent of any of the other municipalities in order to annex the area if:

(1) the area contains less than 100 acres;

(2) the annexing municipality, before June 1, 2005, annexed more than 50 percent of the territory of the water or sewer district, as the district existed on the date of its creation; and

(3) the entire water or sewer district would be contained in the annexing municipality after completion of the annexation.

SECTION 2. Section 43.071(g), Local Government Code, as added by this Act, applies only to the annexation of an area for which all parts of the statutory annexation process are begun on or after the effective date of this Act. The annexation of an area for which any part of the statutory annexation process was begun before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2007.

HB 662 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 662, A bill to be entitled An Act relating to the coordination and improvement of certain programs and services for the prevention of and early intervention in child abuse and neglect.

Representative Dukes moved to concur in the senate amendments to **HB 662**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1565): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Davis, J.; Davis, Y.; Delisi; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles;

Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Driver; Latham.

Absent — Darby; Deshotel; Elkins; Mowery; Peña.

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

Amend **HB 662** by adding the following appropriately numbered SECTIONS and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Section 40.105, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The child abuse and neglect prevention trust fund account is an account in the general revenue fund. Money in the trust fund is dedicated to child abuse prevention programs.

(e) All marriage license fees and other fees collected for and deposited in the trust fund and interest earned on the trust fund balance shall be appropriated each biennium only to the operating fund for primary child abuse prevention programs.

SECTION _____. Section 40.105(e), Human Resources Code, as added by this Act, takes effect September 1, 2010.

LEAVE OF ABSENCE GRANTED

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

Mowery on motion of Olivo.

HB 3900 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3900, A bill to be entitled An Act relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.

Representative Morrison moved to concur in the senate amendments to **HB 3900**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1566):
141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Deshotel; Elkins; Gattis; Van Arsdale.

Senate Committee Substitute

CSHB 3900, A bill to be entitled An Act relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.

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

SECTION 1. Chapter 54, Education Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. PREPAID TUITION UNIT UNDERGRADUATE
EDUCATION PROGRAM: TEXAS TOMORROW FUND II

Sec. 54.751. DEFINITIONS. In this subchapter:

(1) "Accredited out-of-state institution of higher education" means a public or private institution of higher education that:

(A) is located outside this state; and

(B) is accredited by a recognized accrediting agency.

(2) "Beneficiary" means the person designated under a prepaid tuition contract as the person entitled to apply one or more tuition units purchased under the contract to the payment of the person's undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education.

(3) "Board" means the Prepaid Higher Education Tuition Board.

(4) "Fund" means the Texas tomorrow fund II.

(5) "General academic teaching institution" has the meaning assigned by Section 61.003, except that the term does not include a public state college.

(6) "Prepaid tuition contract" means a contract under which a person purchases from the board on behalf of a beneficiary one or more tuition units that the beneficiary is entitled to apply to the payment of the beneficiary's undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education.

(7) "Private or independent institution of higher education," "public junior college," "public state college," "public technical institute," and "recognized accrediting agency" have the meanings assigned by Section 61.003.

(8) "Program" means the prepaid tuition unit undergraduate education program.

(9) "Purchaser" means a person who enters into a prepaid tuition contract with the board on behalf of a beneficiary for the purchase of one or more tuition units.

(10) "Required fee" means a fee, other than a laboratory fee for a specific course, that is charged by a public or private institution of higher education to all students at the institution who are not exempt from the fee. For purposes of this subdivision, a fee is a required fee only to the extent that the fee is considered a qualified higher education expense under Internal Revenue Code provisions applicable to the program.

(11) "Two-year institution of higher education" means a public junior college, a public state college, and a public technical institute.

Sec. 54.752. POWERS AND DUTIES OF BOARD CONCERNING PROGRAM. (a) In addition to carrying out duties assigned under Subchapters F and G, the Prepaid Higher Education Tuition Board shall administer the prepaid tuition unit undergraduate education program established under this subchapter. The board shall comply with federal and state law related to the program.

(b) In addition to the board's powers assigned under Subchapters F and G, the board has the powers necessary or proper to carry out this subchapter, including the power to:

(1) adopt rules to implement this subchapter;

(2) sue and be sued;

(3) enter into contracts and other necessary instruments;

(4) enter into agreements or other transactions with the United States, state agencies, general academic teaching institutions, two-year institutions of higher education, and local governments;

(5) appear on its own behalf before governmental agencies;

(6) contract for necessary goods and services, including specifying in the contract duties to be performed by the provider of a good or service that are a part of or are in addition to the person's primary duties under the contract;

(7) engage the services of private consultants, actuaries, trustees, records administrators, managers, legal counsel, and auditors for administrative or technical assistance;

(8) solicit and accept gifts, grants, loans, and other aid from any source or participate in any other way in any government program to carry out this subchapter;

(9) impose administrative fees;

(10) contract with a person to market the program;

(11) purchase liability insurance covering the board and employees and agents of the board; and

(12) establish other policies, procedures, and eligibility criteria to implement this subchapter.

(c) In marketing the program, regardless of whether the board markets the program directly or under contract as authorized by Subsection (b)(10), the board, in coordination with the Health and Human Services Commission, the Texas Workforce Commission, and the Texas Higher Education Coordinating Board, shall ensure that:

(1) the program is marketed across the state in a manner that promotes the participation goals and targets of the most recent revision of "Closing the Gaps," the state's master plan for higher education; and

(2) any marketing plan for the program includes a specific strategy to promote enrollment in the program by persons likely to qualify for federal earned income tax credits.

Sec. 54.7521. TEXAS SAVE AND MATCH PROGRAM. The board by rule shall develop and shall implement the Texas Save and Match program under which money paid by a purchaser under a prepaid tuition contract may be matched with:

(1) contributions made by any person to the Texas Save and Match program and used to purchase additional tuition units on behalf of beneficiaries selected as provided by board rule; and

(2) money appropriated by the legislature for the Texas Save and Match program and used to purchase additional tuition units on behalf of beneficiaries:

(A) whose annual household income is below the state median family income, adjusted for household size;

(B) whose enrollment in the program would, as determined by the board, promote the participation goals and targets of the most recent revision of "Closing the Gaps," the state's master plan for higher education; or

(C) who meet other criteria established by board rule.

Sec. 54.753. PREPAID TUITION UNITS: PURCHASE; ASSIGNED VALUE; TYPES; PRICE. (a) Under the program, a purchaser may prepay the costs of all or a portion of a beneficiary's undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education by entering into a prepaid tuition contract with the board to purchase one or more tuition units of a type described by this section at the applicable price established by the board for that type of unit for the year in which the unit is purchased. The portion of the beneficiary's undergraduate tuition and required fees for which a tuition unit may be redeemed at a particular general academic teaching institution or two-year institution of

higher education is assigned to the tuition unit at the time of purchase, and the tuition unit may be redeemed to pay that portion of the tuition and fees at the general academic teaching institution or two-year institution of higher education in any academic year in which the unit is redeemed in accordance with this subchapter. The purchaser may purchase one type of unit or a combination of two or three types of units.

(b) The assigned value of a tuition unit, purchased as provided by this section, when used to pay the cost of tuition and required fees at a general academic teaching institution or two-year institution of higher education, is equal to one percent of the amount necessary for the academic year in which the unit is redeemed to cover the applicable cost of undergraduate resident tuition and required fees for one academic year consisting of 30 semester credit hours as follows:

(1) for a Type I tuition unit, the cost of undergraduate resident tuition and required fees charged by the general academic teaching institution with the highest such tuition and fee costs, determined as provided by Subsection (d);

(2) for a Type II tuition unit, the weighted average undergraduate resident tuition and required fees charged by general academic teaching institutions, determined as provided by Subsection (e); and

(3) for a Type III tuition unit, the weighted average undergraduate resident tuition and required fees of two-year institutions of higher education, determined as provided by Subsection (f).

(c) Each year, the board shall establish the price at which each type of tuition unit may be purchased during the next sales period and the percentage of the total cost of undergraduate resident tuition and required fees for one academic year consisting of 30 semester credit hours for which each type of tuition unit may be redeemed at each general academic teaching institution and two-year institution. The percentage shall be based on the total cost of required tuition and fees at a particular general academic teaching institution or two-year institution of higher education in relation to the amount determined for the institution with the highest cost or weighted average cost, as applicable. The purchase price established for each type of unit must be equal to the applicable cost of tuition and required fees as determined under this section for the most recent academic year that began before the beginning of the sales period. The sales period to which those prices apply expires on the first anniversary of the date the units become available for purchase at the prices established for that year.

(d) The board shall base the purchase price of a Type I tuition unit on one percent of the cost of the undergraduate resident tuition and required fees for the applicable academic year at the general academic teaching institution with the highest such tuition and fee cost for that academic year.

(e) The board shall base the purchase price of a Type II tuition unit on one percent of the cost of the weighted average general academic teaching institution undergraduate resident tuition and required fees for the applicable academic year. That cost is determined by:

(1) for each general academic teaching institution, multiplying the average amount of the institution's undergraduate resident tuition and required fees for an academic year consisting of 30 semester credit hours by the number of full-time equivalent undergraduate resident students at that institution;

(2) adding together the products computed under Subdivision (1) for each institution; and

(3) dividing the sum determined under Subdivision (2) by the total number of full-time equivalent undergraduate resident students at all general academic teaching institutions.

(f) The board shall base the purchase price of a Type III tuition unit on one percent of the cost of the weighted average two-year institution of higher education undergraduate resident tuition and required fees for the applicable academic year, disregarding any portion of the tuition charged by a public junior college to a resident of this state who does not reside within the taxing jurisdiction of the junior college. That cost is determined by:

(1) for each two-year institution of higher education, multiplying the average amount of the institution's undergraduate resident tuition and required fees for an academic year consisting of 30 semester credit hours by the number of full-time equivalent undergraduate resident students at that institution;

(2) adding together the products computed under Subdivision (1) for each institution; and

(3) dividing the sum determined under Subdivision (2) by the total number of full-time equivalent undergraduate resident students at all two-year institutions of higher education.

(g) The total amount paid under a prepaid tuition contract on behalf of a single beneficiary may not exceed any limit established on the amount by Section 529, Internal Revenue Code of 1986. The board shall establish, in compliance with Section 529, Internal Revenue Code of 1986, the minimum amount that the purchaser is required to pay under the contract on behalf of a single beneficiary.

(h) At the time of the establishment of the account to which a purchaser's prepaid tuition contract money is assigned, the board may impose an administrative fee not to exceed \$25. Money from that fee must be used directly in maintaining the actuarial soundness of the fund as required by Section 54.770. The board may not impose any other fee or charge in connection with the sale of a tuition unit.

Sec. 54.754. REDEMPTION OF TUITION UNITS. (a) In accordance with this subchapter, when a beneficiary under a prepaid tuition contract redeems one or more tuition units to pay costs of tuition and required fees, the board shall apply money in the fund, in the amount provided by Section 54.765 to pay all or the applicable portion of the costs of the beneficiary's tuition and required fees at the general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education in which the beneficiary enrolls. Subject to Subsection (b)(2) and the other provisions of this section, a beneficiary may redeem any type of tuition unit for attendance at an institution described by this section. A general academic teaching institution or two-year institution of

higher education shall accept the amount transferred to the institution under Section 54.765(c) when the unit or units are redeemed as payment for all or the applicable portion of the beneficiary's tuition and required fees.

(b) To pay for the entire cost of undergraduate resident tuition and required fees for an academic year consisting of 30 semester credit hours, redemption of 100 Type I tuition units is required at the general academic teaching institution with the highest tuition and fee cost as described by Section 54.753(d), redemption of 100 Type II tuition units is required at a general academic teaching institution with the applicable tuition and fee cost at the weighted average as described by Subsection (e) of that section, and redemption of 100 Type III units is required at a two-year institution of higher education with the applicable tuition and fee cost at the weighted average as described by Subsection (f) of that section. The number of tuition units that must be redeemed to pay for the entire cost of tuition and required fees for an academic year at another general academic teaching institution or two-year institution of higher education may be higher or lower:

(1) in proportion to the amount that the cost of tuition and required fees at that institution is higher or lower than the amount determined for the institution with the highest cost or weighted average cost, as applicable; or

(2) if a more or less valuable type of tuition unit is redeemed.

(c) To assist purchasers in determining the number of tuition units a beneficiary must redeem to cover the costs of tuition and required fees at general academic teaching institutions and two-year institutions of higher education, each year the board shall prepare a tuition unit redemption chart and shall post the chart on an Internet website. The chart must show for each general academic teaching institution and for each two-year institution of higher education the number of each type of units purchased that year that would be required to cover the cost of tuition and required fees, based on an academic year consisting of 30 semester credit hours.

(d) If a beneficiary redeems fewer tuition units of the type or combination of types necessary to pay the total cost of the beneficiary's tuition and required fees at the general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education at which the beneficiary enrolls, the beneficiary is responsible for paying the amount of the difference between the amount of tuition and required fees for which the beneficiary pays through the redemption of one or more tuition units and the total cost of the beneficiary's tuition and required fees at the institution.

(d-1) A beneficiary who redeems one or more Type III tuition units to attend a public junior college and who does not reside within the taxing jurisdiction of the junior college is responsible for paying any portion of the tuition charged by the junior college to persons who do not reside within that taxing jurisdiction.

(e) If the beneficiary redeems fewer tuition units to pay the cost of tuition and required fees than the number of units purchased on behalf of the beneficiary under a prepaid tuition contract, other than to defer redemption as permitted in accordance with Section 54.758, the purchaser may:

(1) redeem for cash the amount of the purchase price of the excess units, plus annual interest earned on that money, accrued at a rate set by the board not to exceed five percent annually; or

(2) transfer the remaining units to another beneficiary in accordance with this subchapter.

(f) A beneficiary or purchaser may not redeem a tuition unit earlier than the third anniversary of the date the unit was purchased.

Sec. 54.755. PREPAID TUITION CONTRACT. (a) The board shall adopt a form for a prepaid tuition contract to be used by the board and purchasers.

(b) A prepaid tuition contract must:

(1) specify the terms under which the purchaser must pay any amounts owed under the contract;

(2) specify the consequences of default;

(3) specify the name and date of birth of the beneficiary under the contract and the terms under which another person may be substituted as the beneficiary;

(4) specify the date the beneficiary is projected to graduate from high school; and

(5) contain any other provisions the board considers necessary or appropriate.

(c) A prepaid tuition contract may provide for the purchase of additional tuition units in subsequent years at the then-current price of the additional units.

Sec. 54.756. PURCHASER; BENEFICIARY. (a) A purchaser may be any person who is permitted to be a purchaser under Section 529, Internal Revenue Code of 1986. The purchaser is not required to be a resident of this state, except as provided by Subsection (c)(2).

(b) In accordance with applicable provisions of Section 529, Internal Revenue Code of 1986, a purchaser is the owner of the account to which the purchaser's prepaid tuition contract money is assigned.

(c) At the time the purchaser enters into a prepaid tuition contract, the beneficiary of the contract must be:

(1) a resident of this state at the time the purchaser enters into the contract; or

(2) a nonresident who is the child of a parent who is a resident of this state at the time that parent enters into the contract.

(d) For purposes of Subsection (c), the board may require a reasonable period of residence in this state for a beneficiary or the parent of a beneficiary.

(e) Notwithstanding any provision of Subchapter B, the tuition and required fees charged by a general academic teaching institution or two-year institution of higher education that are paid for with tuition units shall be determined as if the beneficiary of that contract were a resident student.

Sec. 54.757. CONTRACT PAYMENT. (a) The board may provide for the receipt of payment under prepaid tuition contracts in lump sums or installment payments. If the board allows payments under a contract to be made in installments over a period longer than one year, the board must provide for a plan that permits those payments to be made in single annual installments in addition to any other permitted installment plans.

(b) A purchaser may make payments under a prepaid tuition contract by an electronic funds transfer.

(c) An employee of this state or a political subdivision of this state may make payments under a prepaid tuition contract by payroll deductions made by the appropriate officer of the state or political subdivision. The board shall implement procedures to facilitate payments under this subsection.

(d) The board may impose a fee for a late payment under a prepaid tuition contract.

Sec. 54.758. DEFERRED USE OF PREPAID CREDIT HOURS. (a) A prepaid tuition contract must permit the beneficiary to elect to pay from a source other than tuition units purchased under the contract the beneficiary's tuition and required fees for some or all of the tuition and required fees to which the beneficiary is entitled to payment under the contract, and to defer to a subsequent semester or other academic term the right to payment of the beneficiary's tuition and required fees by using tuition units remaining under the contract.

(b) This section does not affect the date on which a prepaid tuition contract terminates under this subchapter and does not give the beneficiary the right to a payment under the contract after termination of the contract.

Sec. 54.759. CHANGE OF BENEFICIARY. (a) The purchaser of a prepaid tuition contract may designate a different beneficiary in place of the original beneficiary if the new beneficiary meets the requirements of a beneficiary on the date the designation is changed. The new beneficiary must meet the requirements of Section 529, Internal Revenue Code of 1986, to prevent the change of beneficiary from being treated as a distribution under that law.

(b) The board may adjust the terms of the contract so that the purchaser is required to pay the amount the purchaser would have been required to pay had the purchaser originally designated the new beneficiary as the beneficiary, taking into account any payments made before the date the designation is changed.

(c) The board may not impose a fee in connection with the designation of a new beneficiary.

(d) The purchaser of a prepaid tuition contract may not sell the contract.

Sec. 54.760. VERIFICATION UNDER OATH. The board may require a purchaser to verify under oath a request to:

- (1) change a beneficiary; or
- (2) terminate a contract.

Sec. 54.761. PROMISE OR GUARANTEE OF ADMISSION. This subchapter is not a promise or guarantee that a beneficiary will be:

- (1) admitted to any public or private institution of higher education;
- (2) admitted to a particular public or private institution of higher education;

(3) allowed to continue enrollment at a public or private institution of higher education; or

(4) graduated from a public or private institution of higher education.

Sec. 54.762. CONTRACT TERMINATION. (a) A prepaid tuition contract shall specify:

(1) the name of any person who may terminate the contract; and

(2) the terms under which the contract may be terminated.

(b) A prepaid tuition contract terminates on the 10th anniversary of the date the beneficiary is projected to graduate from high school, not counting time spent by the beneficiary as an active duty member of the United States armed services.

Sec. 54.763. REFUND. (a) A prepaid tuition contract shall specify:

(1) the name of the person entitled to any refund if the contract is terminated;

(2) the terms under which a person is entitled to a refund; and

(3) the method by which the amount of the refund is computed.

(b) The person named in the contract is entitled to a refund following termination of a prepaid tuition contract.

(c) The board shall determine the method by which the amount of the refund is computed.

Sec. 54.764. FUND. (a) The Texas tomorrow fund II prepaid tuition unit undergraduate education program fund is established as a trust fund outside of the state treasury.

(b) The board shall:

(1) deposit in the fund money paid under prepaid tuition contracts; and

(2) credit to the fund income earned on that money.

(c) The board shall provide for administering the assets of the fund and establishing and administering the accounts of purchasers under prepaid tuition contracts.

(d) The board shall provide for assigning payments to the fund to separate accounts for purchasers and may provide for assigning payments to other general accounts as otherwise considered appropriate by the board.

(e) The board may provide for acquiring, holding, managing, purchasing, selling, assigning, trading, transferring, or disposing of any security, evidence of indebtedness, or other investment in which the fund's assets may be invested.

Sec. 54.765. COMPTROLLER'S DUTIES; TRANSFERS TO INSTITUTIONS ON REDEMPTION OF TUITION UNITS. (a) Except as provided by Subsection (e), the comptroller is the custodian of the assets of the fund.

(b) The comptroller shall pay money from the fund on a warrant drawn by the comptroller supported only on a voucher signed by the comptroller or the comptroller's authorized representative.

(c) When a beneficiary enrolls at a general academic teaching institution or two-year institution of higher education, on written authorization from the purchaser of the tuition unit or units for that beneficiary, the comptroller shall transfer to the institution an amount equal to the lesser of:

(1) the sum of:

(A) the total purchase price of the tuition unit or units the beneficiary redeems for the semester or other academic term; and

(B) the amount determined under Subsection (d); or

(2) an amount equal to 101 percent of the amount of tuition and required fees covered by the tuition units being redeemed.

(d) The amount required to be transferred under Subsection (c)(1)(B) is the greater of:

(1) an amount equal to the portion of the actual total return on all investment assets of the fund attributable to the amount transferred under Subsection (c)(1)(A); or

(2) an amount equal to the portion of the total return on all investment assets of the fund attributable to the amount transferred under Subsection (c)(1)(A) that would result assuming an annual return on all investment assets of the fund of five percent, subject to the availability of money in the fund for that purpose.

(e) If the amount that would otherwise be transferred under Subsections (c)(1)(A) and (B) exceeds the amount that may be transferred under Subsection (c)(2), the excess amount shall be retained in the fund and used as necessary to provide sufficient money to meet the minimum transfer requirements under Subsection (c)(1)(B) as specified by Subsection (d).

(f) When a beneficiary enrolls at a private or independent institution of higher education or accredited out-of-state institution of higher education, on written authorization from the purchaser of the tuition unit or units for that beneficiary, the comptroller shall transfer to the institution the lesser of:

(1) an amount equal to the current cost of the tuition and required fees that would be covered by redemption of the number and type of tuition units the beneficiary is redeeming if the beneficiary were redeeming the unit or units at a general academic teaching institution or two-year institution of higher education as follows:

(A) for a Type I unit, at the general academic teaching institution that, in the sales year in which the unit was purchased, had the highest tuition and required fee cost;

(B) for a Type II unit, at a general academic teaching institution that, in the sales year in which the unit was purchased, had tuition and required fee cost at the weighted average; and

(C) for a Type III unit, at a two-year institution of higher education that, in the sales year in which the unit was purchased, had tuition and required fee cost at the weighted average; or

(2) an amount equal to the total purchase price of the tuition unit or units the beneficiary redeems for the semester or other academic term plus the portion of the total return on assets of the fund attributable to that amount.

(g) The comptroller annually shall provide to the board a sworn statement of the amount of the fund's assets in the comptroller's custody.

(h) The board may select one or more commercial banks, depository trust companies, or other entities to serve as custodian of all or part of the fund's assets.

Sec. 54.766. INVESTMENT OF FUND ASSETS. (a) The board shall provide for investing the assets of the fund. In investing the fund, the board has the same investment authority as that provided by Section 11b, Article VII, Texas Constitution, or other law, to the board of regents of The University of Texas System with respect to the investment of the Permanent University Fund.

(b) The board shall contract with one or more private professional investment managers to serve as plan manager and to invest the assets of the fund on behalf of the board. In selecting a manager, the board must:

(1) select a person who has served as a professional investment manager for at least 10 years;

(2) evaluate each person considered for the position based on the historical net returns of the person's professional investments and the consistency of the person's professional investment returns over a period of at least five years; and

(3) comply with Section 54.704.

(c) In monitoring the manager's investments, the board shall ensure that investments are made according to the standard of investment provided by this section. The plan manager has the same duties imposed on a plan manager by Section 54.705.

(d) The board shall develop written objectives concerning the investment of the assets of the fund. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.

(e) The board may specify in a contract under this section that the plan manager is required to establish and maintain an Internet website through which a purchaser may monitor the account to which the purchaser's prepaid tuition contract money is assigned.

Sec. 54.767. USE OF FUND ASSETS. The assets of the fund may be used only to:

(1) pay the costs of program administration and operations;

(2) make payments to general academic teaching institutions, two-year institutions of higher education, private or independent institutions of higher education, and accredited out-of-state institutions of higher education on behalf of beneficiaries; and

(3) make refunds under prepaid tuition contracts.

Sec. 54.7671. TRANSFERS AMONG 529 PLANS. (a) The board by rule shall provide for a purchaser to transfer money between an account under this subchapter and an account under another plan established by this state or by another state or other authorized entity in accordance with Section 529, Internal Revenue Code of 1986, to the extent and in the manner authorized by that section.

(b) For purposes of a transfer of money from an account under this subchapter, the value of the account at the time of transfer is the lesser of:

(1) an amount equal to the cost, at the time of the transfer, of the tuition and required fees that would be covered by redemption of the number and type of tuition units to be transferred from the account if the beneficiary were redeeming the units at a general academic teaching institution or two-year institution of higher education as follows:

(A) for a Type I unit, at the general academic teaching institution that, in the sales year in which the unit was purchased, had the highest tuition and required fee cost;

(B) for a Type II unit, at a general academic teaching institution that, in the sales year in which the unit was purchased, had tuition and required fee cost at the weighted average; and

(C) for a Type III unit, at a two-year institution of higher education that, in the sales year in which the unit was purchased, had tuition and required fee cost at the weighted average; or

(2) an amount equal to the total purchase price of the tuition units to be transferred from the account, plus the portion of the total return on assets of the fund attributable to that amount.

Sec. 54.768. EXEMPTION FROM SECURITIES LAWS. The registration requirements of The Securities Act (Article 581-I et seq., Vernon's Texas Civil Statutes) do not apply to the sale of a prepaid tuition contract by the board or by a registered securities dealer or registered investment adviser.

Sec. 54.769. EXEMPTION FROM CREDITORS' CLAIMS. (a) Money in the fund is exempt from claims of creditors, including claims of creditors of a purchaser, a beneficiary, or a successor in interest of a purchaser or beneficiary.

(b) The rights of a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary in and under a prepaid tuition contract and the payment of tuition and required fees for a beneficiary under a prepaid tuition contract to a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education under this chapter are exempt from attachment, levy, garnishment, execution, and seizure for the satisfaction of any debt, judgment, or claim against a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary.

(c) A claim or judgment against a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary does not impair or entitle the claim or judgment holder to assert or enforce a lien against:

(1) the rights of a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary in and under a prepaid tuition contract; or

(2) the right of a beneficiary to the payment of tuition and required fees to a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education under a prepaid tuition contract.

Sec. 54.770. ACTUARIAL SOUNDNESS OF FUND. (a) The board shall administer the fund in a manner that is sufficiently actuarially sound to pay the costs of program administration and operations and to meet the obligations of the program.

(b) The board shall annually evaluate the actuarial soundness of the fund.

(c) The board may adjust the terms of subsequent prepaid tuition contracts as necessary to ensure the actuarial soundness of the fund.

Sec. 54.771. COMPLIANCE WITH LIMITS ON CONTRIBUTIONS AND WITHDRAWALS. The board shall monitor contributions to and withdrawals from the fund and any account within the fund to ensure that any applicable limits on contributions or withdrawals are not exceeded.

Sec. 54.772. TAX EXEMPT STATUS REQUIREMENTS. (a) This section is intended to meet the requirements of Section 529, Internal Revenue Code of 1986.

(b) A payment of an amount due to the fund for a prepaid tuition contract must be made in cash or cash equivalent. A person may not make a payment to the fund in excess of the amounts required to be paid under a prepaid tuition contract.

(c) The board shall maintain a separate accounting for each beneficiary.

(d) The purchaser under a prepaid tuition contract and the beneficiary under the contract may not:

(1) control or direct the investment of payments under the contract or any earnings of the fund; or

(2) use any interest in the contract as security for a loan or other obligation.

(e) The board shall make reports required by the secretary of the United States Treasury.

Sec. 54.773. SUSPENSION OF NEW ENROLLMENT; PROGRAM MODIFICATION OR TERMINATION. (a) On the request of the comptroller as the comptroller considers necessary to ensure the actuarial soundness of the fund, the board may temporarily suspend new enrollment in the program.

(b) If the comptroller determines that the program is financially infeasible, the comptroller shall notify the governor and the legislature and recommend that the program be modified or terminated.

Sec. 54.774. EFFECT OF PROGRAM TERMINATION ON CONTRACT. (a) A prepaid tuition contract remains in effect after the program is terminated if, when the program is terminated, the beneficiary:

(1) has been accepted by or is enrolled at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education; or

(2) is projected to graduate from high school not later than the third anniversary of the date the program is terminated.

(b) A prepaid tuition contract terminates when the program is terminated if the contract does not remain in effect under Subsection (a).

Sec. 54.775. CONFIDENTIALITY. (a) Records in the custody of the board relating to the participation of specific purchasers and beneficiaries in the program are confidential.

(b) Notwithstanding Subsection (a), the board may release information described by that subsection to a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, or accredited out-of-state institution of higher education at which a beneficiary may enroll or is enrolled. The institution shall keep the information confidential.

(c) Notwithstanding any other provision of this subchapter, the board may release information to the Internal Revenue Service and to any state tax agencies as required by applicable tax law.

Sec. 54.776. STATEMENT REGARDING STATUS OF PREPAID TUITION CONTRACT. Not later than January 1 of each year, the board shall provide without charge to each purchaser a statement of:

(1) the amount paid by the purchaser under the prepaid tuition contract;
(2) the total number of each type of tuition unit covered by the contract at any one time;

(3) the number of each type of tuition unit remaining under the contract;

(4) the value of the purchasers' tuition units if redeemed at any general academic teaching institution or two-year institution of higher education designated for that year by the purchaser in the time and manner required by the board, not to exceed five institutions; and

(5) any other information the board determines by rule is necessary or appropriate.

Sec. 54.777. REPORTS. (a) Not later than December 1 of each year, the board shall submit to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, Legislative Audit Committee, state auditor, and Texas Higher Education Coordinating Board a report including:

(1) the fiscal transactions of the board and the plan manager under this subchapter during the preceding fiscal year;

(2) the market and book value of the fund as of the end of the preceding fiscal year;

(3) the asset allocations of the fund expressed in percentages of stocks, fixed income, cash, or other financial investments;

(4) the rate of return on the investment of the fund's assets during the preceding fiscal year; and

(5) an actuarial valuation of the assets and liabilities of the program, including the extent to which the program's liabilities are unfunded.

(b) The board shall make the report described by Subsection (a) available to purchasers of prepaid tuition contracts.

(c) Not later than December 1 of each year, the board shall provide to the coordinating board complete prepaid tuition contract sales information, including projected enrollments of beneficiaries at general academic teaching institutions and two-year institutions of higher education.

Sec. 54.778. AUDIT. The fund and the operations of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

SECTION 2. Beginning September 1, 2008, the Prepaid Higher Education Tuition Board may enter into prepaid tuition contracts with purchasers and begin selling tuition units under those contracts in accordance with Subchapter H, Chapter 54, Education Code, as added by this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 3900** as follows:

(1) In Section 54.766, Education Code, as added by SECTION 1 of the bill, add the following at the end of Subsection (a):

The board and the board of regents of The University of Texas System may contract for the board of regents to manage and invest the assets of the fund, and for that purpose the board may delegate its duties under this section to the board of regents.

(2) In Subsection (b), Section 54.766, Education Code, as added by SECTION 1 of the bill, strike "The board shall contract with one or more private professional investment managers" and substitute "If the board does not contract with the board of regents of The University of Texas System under Subsection (a) to manage and invest the assets of the fund, the board shall contract with one or more private professional investment managers".

**HB 41 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 41, A bill to be entitled An Act relating to the confidentiality of home address information of certain federal judges and their spouses and of certain state judges.

Representative Paxton moved to concur in the senate amendments to **HB 41**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1567): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst;

Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Elkins; Smith, W.

Senate Committee Substitute

CSHB 41, A bill to be entitled An Act relating to the confidentiality of home address information of certain federal judges and state judges and their spouses.

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

SECTION 1. Subchapter A, Chapter 13, Election Code, is amended by adding Section 13.0021 to read as follows:

Sec. 13.0021. ADDITIONAL REGISTRATION INFORMATION FROM CERTAIN FEDERAL AND STATE JUDGES. (a) In this section:

(1) "Federal judge" means:

(A) a judge, former judge, or retired judge of a United States court of appeals;

(B) a judge, former judge, or retired judge of a United States district court;

(C) a judge, former judge, or retired judge of a United States bankruptcy court; or

(D) a magistrate judge, former magistrate judge, or retired magistrate judge of a United States district court.

(2) "State judge" means:

(A) a judge, former judge, or retired judge of an appellate court, a district court, or a county court at law of this state; or

(B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter.

(b) If the registration applicant is a federal judge or state judge who seeks to have the applicant's residence address omitted from the registration list, the applicant shall include with the application an affidavit stating that the applicant is a federal judge or state judge.

SECTION 2. Section 13.004, Election Code, is amended by amending Subsections (c) and (d) and adding Subsection (c-1) to read as follows:

(c) The following information furnished on a registration application is confidential and does not constitute public information for purposes of Chapter 552, Government Code:

- (1) a ~~[A]~~ social security number;
- (2) a ~~[7]~~ Texas driver's license number;
- (3) a ~~[7]~~ number of a personal identification card issued by the Department of Public Safety;
- (4) ~~[, or]~~ an indication that an applicant is interested in working as an election judge; or
- (5) the residence address of the applicant, if the applicant is a federal judge or state judge, as defined by Section 13.0021, and included an affidavit with the registration application under Section 13.0021 or the registrar has received an affidavit submitted under Section 15.0215 ~~[furnished on a registration application is confidential and does not constitute public information for purposes of Chapter 552, Government Code].~~

(c-1) The registrar shall ensure that the information listed in Subsection (c) [a social security number, Texas driver's license number, number of a personal identification card issued by the Department of Public Safety, or an indication that an applicant is interested in working as an election judge] is excluded from disclosure.

(d) The voter registrar or other county official who has access to the information furnished on a registration application may not post the following information on a website:

- (1) a telephone number;
- (2) a social security number;
- (3) a driver's license number or a number of a personal identification card; ~~[or]~~
- (4) a date of birth; or
- (5) the residence address of a voter who is a federal judge or state judge, as defined by Section 13.0021, if the voter included an affidavit with the application under Section 13.0021 or the registrar has received an affidavit submitted under Section 15.0215.

SECTION 3. Subchapter B, Chapter 15, Election Code, is amended by adding Section 15.0215 to read as follows:

Sec. 15.0215. NOTICE OF FEDERAL JUDGE OR STATE JUDGE STATUS. (a) In this section, "federal judge" and "state judge" have the meanings assigned by Section 13.0021.

(b) A federal judge or state judge who is registered to vote may at any time submit to the registrar of the county in which the judge resides an affidavit stating that the voter is a federal judge or state judge.

SECTION 4. Section 15.081, Election Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Subsection (b), the suspense list may not contain the residence address of a voter who is a federal judge or state judge if the voter included an affidavit with the voter's registration application under Section 13.0021 or the registrar received an affidavit submitted under Section 15.0215 before the list was prepared. In this subsection, "federal judge" and "state judge" have the meanings assigned by Section 13.0021.

SECTION 5. Section 18.005, Election Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Each original and supplemental list of registered voters must:

(1) contain the voter's name, ~~[residence address,]~~ date of birth, and registration number as provided by the statewide computerized voter registration list;

(2) contain the voter's residence address, except as provided by Subsections (b) and (c);

(3) be arranged alphabetically by voter name; and

(4) ~~[↔]~~ contain the notation required by Section 15.111~~[-and~~

~~[↔] until Section 13.122(d) expires, identify each voter registered by mail for the first time who failed to provide a copy of a document described by Section 63.0101 establishing the voter's identity at the time of registration].~~

(c) The original or supplemental list of registered voters may not contain the residence address of a voter who is a federal judge or state judge if the voter included an affidavit with the voter's registration application under Section 13.0021 or the registrar received an affidavit submitted under Section 15.0215 before the list was prepared. In this subsection, "federal judge" and "state judge" have the meanings assigned by Section 13.0021.

SECTION 6. Section 18.066(b), Election Code, is amended to read as follows:

(b) Information furnished under this section may not include:

(1) a voter's social security number; or

(2) the residence address of a voter who is a federal judge or state judge, as defined by Section 13.0021, if the voter included an affidavit with the voter's registration application under Section 13.0021 or the applicable registrar has received an affidavit submitted under Section 15.0215.

SECTION 7. Section 63.0011(a), Election Code, is amended to read as follows:

(a) Before a voter may be accepted for voting, an election officer shall ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. If the voter's address is omitted from the precinct list under Section 18.005(c), the officer shall ask the voter if the voter's residence as listed on the voter's voter registration certificate is current and whether the voter has changed residence within the county.

SECTION 8. Section 411.171, Government Code, is amended by adding Subdivisions (4-a) and (4-b) to read as follows:

(4-a) "Federal judge" means:

(A) a judge of a United States court of appeals;

(B) a judge of a United States district court;

(C) a judge of a United States bankruptcy court; or

(D) a magistrate judge of a United States district court.

(4-b) "State judge" means:

(A) the judge of an appellate court, a district court, or a county court at law of this state; or

(B) an associate judge appointed under Chapter 201, Family Code.

SECTION 9. Section 411.179, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The department by rule shall adopt the form of the license. A license must include:

(1) a number assigned to the license holder by the department;
 (2) a statement of the period for which the license is effective;
 (3) a statement of the category or categories of handguns the license holder may carry as provided by Subsection (b);

(4) a color photograph of the license holder; ~~and~~
 (5) the license holder's full name, date of birth, ~~residence address,~~ hair and eye color, height, weight, and signature;

(6) the license holder's residence address or, as provided by Subsection (c), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or the license holder serves as a state judge;⁵ and

(7) the number of a driver's license or an identification certificate issued to the license holder by the department.

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a federal judge, a state judge, or the spouse of a federal judge or state judge to omit the license holder's residence address and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, a state judge, or the spouse of a federal judge or state judge.

SECTION 10. Sections 411.181(a) and (b), Government Code, are amended to read as follows:

(a) If a person who is a current license holder moves to a new residence ~~from the~~ address, ~~stated on the license or~~ if the name of the person is changed by marriage or otherwise, or if the person's status as a federal judge, a state judge, or the spouse of a federal judge or state judge, becomes inapplicable, the person shall, not later than the 30th day after the date of the address, ~~or~~ name, or status change, notify the department and provide the department with the number of the person's license and, as applicable, the person's:

- (1) former and new addresses; or
- (2) former and new names.

(b) If the name of the license holder is changed by marriage or otherwise, or if the person's status as a federal judge or state judge, or the spouse of a federal judge or state judge becomes inapplicable, the person shall apply for a duplicate license. The duplicate license must include the person's current residence address.

SECTION 11. Section 25.025, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) This section applies only to:

(1) a peace officer as defined by Article 2.12, Code of Criminal Procedure;

- (2) a county jailer as defined by Section 1701.001, Occupations Code;
- (3) an employee of the Texas Department of Criminal Justice;
- (4) a commissioned security officer as defined by Section 1702.002, Occupations Code; ~~and~~
- (5) a victim of family violence as defined by Section 71.004, Family Code, if as a result of the act of family violence against the victim, the actor is convicted of a felony or a Class A misdemeanor; and
- (6) a federal judge or state judge.

(a-1) In this section:

- (1) "Federal judge" means:
 - (A) a judge, former judge, or retired judge of a United States court of appeals;
 - (B) a judge, former judge, or retired judge of a United States district court;
 - (C) a judge, former judge, or retired judge of a United States bankruptcy court; or
 - (D) a magistrate judge, former magistrate judge, or retired magistrate judge of a United States district court.

(2) "State judge" means:

- (A) a judge, former judge, or retired judge of an appellate court, a district court, or a county court at law of this state; or
- (B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter.

SECTION 12. This Act takes effect September 1, 2007.

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

Amend **CSHB 41** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.075 to read as follows:

Sec. 161.075. IMMUNITY FOR AREA AGENCIES ON AGING AND AGENCY EMPLOYEES AND VOLUNTEERS. (a) In this section:

(1) "Area agency on aging" means an agency described by 42 U.S.C. Section 3002(17) and through which the department ensures the implementation of services and volunteer opportunities for older persons in this state as provided by Section 161.071(5)(A).

(2) "Texas nonprofit organization" means a nonprofit corporation:

(A) that is organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); and

(B) the funding of which is managed by an organization that is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) of that code.

(3) "Volunteer" means a person who:

(A) renders services for or on behalf of an area agency on aging under the supervision of an area agency on aging employee; and

(B) does not receive compensation that exceeds the authorized expenses the person incurs in performing those services.

(b) An area agency on aging that conducts an election on behalf of a Texas nonprofit organization is not civilly or criminally liable for any act or omission, including an act or omission relating to verifying the qualifications of candidates and determining and reporting election results, that relates to a duty or responsibility with respect to conducting the election if the agency acted in good faith and within the scope of the agency's authority.

(c) An area agency on aging employee or volunteer who performs an act related to the conduct of an election described by Subsection (b) is not civilly or criminally liable for the act or any omission that relates to a duty or responsibility with respect to conducting the election if the person acted in good faith and within the scope of the person's authority.

SECTION _____. The change in law made by this Act with respect to the civil liability of an area agency on aging or an employee or volunteer of the agency applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. The change in law made by this Act with respect to the criminal liability of an area agency on aging or an employee or volunteer of the agency applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION _____. Section 161.075, Human Resources Code, as added by this Act, is an exercise of authority under Section 66(c), Article III, Texas Constitution, and takes effect only if this Act receives a vote of three-fifths of all the members elected to each house, as provided by Subsection (e) of that section.

HB 323 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 323, A bill to be entitled An Act relating to three-point seat belts on buses that transport schoolchildren.

Representative Hamilton moved to concur in the senate amendments to **HB 323**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1568): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Castro; Elkins; Olivo; Strama.

Senate Committee Substitute

CSHB 323, A bill to be entitled An Act relating to three-point seat belts on buses that transport schoolchildren.

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

SECTION 1. The heading to Section 547.701, Transportation Code, is amended to read as follows:

Sec. 547.701. ADDITIONAL EQUIPMENT REQUIREMENTS FOR SCHOOL BUSES AND OTHER BUSES USED TO TRANSPORT SCHOOLCHILDREN.

SECTION 2. Section 547.701, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) In this subsection, "bus" includes a school bus and a school activity bus. A bus operated by or contracted for use by a school district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This subsection applies to:

(1) each bus purchased by a school district on or after September 1, 2010, for the transportation of schoolchildren; and

(2) each school-chartered bus contracted for use by a school district on or after September 1, 2014, for the transportation of schoolchildren.

SECTION 3. Chapter 34, Education Code, is amended by adding Section 34.013 to read as follows:

Sec. 34.013. FUNDING FOR THREE-POINT SEAT BELTS. (a) A person may offer to donate three-point seat belts or money for the purchase of three-point seat belts for a school district's school buses.

(b) The board of trustees of a school district shall consider any offer made by a person under Subsection (a). The board of trustees may accept or decline the offer after adequate consideration.

(c) The board of trustees may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus under this section by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

SECTION 4. The changes made by Section 2 of this Act do not take effect unless the legislature appropriates money specifically for the purpose of reimbursing school districts for expenses incurred in complying with that section.

SECTION 5. This Act takes effect September 1, 2007.

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

Amend **CSHB 323** by adding new SECTIONS 3 and 4, and renumbering the following SECTION accordingly:

SECTION 3. Chapter 34, Education Code, is amended by adding Section 34.012 to read as follows:

Sec. 34.012. THREE-POINT SEAT BELT INSTRUCTION; INFORMATION CLEARINGHOUSE. (a) The State Board of Education shall develop and make available to each school district a program of instruction in the proper use of a three-point seat belt.

(b) The State Board of Education shall serve as a clearinghouse of best practices for school districts seeking the most efficient and sensible information regarding school bus safety, including possible compliance with Section 547.701 of the Transportation Code using school buses originally purchased without seat belts.

SECTION 4. At any time before the dates prescribed in SECTION 1 of this Act, a school district may, by its own initiative and at its own expense, adapt any or all of its existing bus fleet with a three-point seat belt.

Senate Amendment No. 2 (Senate Floor Amendment No. 4)

Amend **CSHB 323** (Senate committee printing) as follows:

(1) In the introductory language to SECTION 3 of the bill (page 1, line 30), strike "Section" and substitute "Sections 34.012 and".

(2) In SECTION 3 of the bill, after the introductory language (page 1, between lines 30 and 31), insert:

Sec. 34.013. BUS SEAT BELT POLICY. A school district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students.

Senate Amendment No. 3 (Senate Floor Amendment No. 5)

Amend **CSHB 323** in SECTION 2 of the bill, in proposed Subsection (e)(2), Section 547.701, Transportation Code (Senate committee printing, page 1, line 27), by striking "2014" and substituting "2011".

Senate Amendment No. 4 (Senate Floor Amendment No. 6)

Amend **CSHB 323** (Senate committee printing) as follows:

(1) In the introductory language to SECTION 3 of the bill (page 1, line 30), strike "Section 34.013" and substitute "Sections 34.013 and 34.014".

(2) In SECTION 3 of the bill, immediately after proposed Section 34.013, Transportation Code (page 1, between lines 44 and 45), insert:

Sec. 34.014. REPORTING OF BUS ACCIDENTS. (a) In this section, "bus" means a bus operated by or contracted for use by a school district to transport schoolchildren.

(b) A school district shall report annually to the Texas Education Agency the number of accidents in which the district's buses are involved. The agency by rule shall determine the information to be reported, including:

(1) the type of bus involved in the accident;

(2) whether the bus was equipped with seat belts;

(3) the number of students and adults involved in the accident;

(4) the number and types of injuries sustained by bus passengers in the accident; and

(5) whether the injured passengers were wearing seat belts at the time of the accident.

(c) The Texas Education Agency shall publish the reports received under this section on its Internet website.

**HB 530 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 530, A bill to be entitled An Act relating to the operation and funding of drug court programs.

Representative Madden moved to concur in the senate amendments to **HB 530**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1569): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown;

Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Crownover; Elkins; Gonzales; Howard, C.; Howard, D.; Smith, W.

STATEMENT OF VOTE

When Record No. 1569 was taken, I was in the house but away from my desk. I would have voted yes.

D. Howard

Senate Committee Substitute

CSHB 530, A bill to be entitled An Act relating to the operation and funding of drug court programs.

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

SECTION 1. Section 469.001, Health and Safety Code, is amended to read as follows:

Sec. 469.001. **DRUG COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS.** (a) In this chapter, "drug court program" means a program that has the following essential characteristics:

(1) the integration of alcohol and other drug treatment services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, drug, and other related treatment and rehabilitative services;

(5) monitoring of abstinence through weekly alcohol and other drug testing;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations.

(b) If a defendant successfully completes a drug court program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure under Section 411.081, Government Code, as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program if the defendant:

(1) has not been previously convicted of a felony offense; and

(2) is not convicted for any other felony offense before the second anniversary of the defendant's successful completion of the program.

(c) Notwithstanding Subsection (b), a defendant is not entitled to petition the court for an order of nondisclosure following successful completion of a drug court program if the defendant's entry into the program arose as the result of a conviction for an offense involving the operation of a motor vehicle while intoxicated.

SECTION 2. Section 469.002, Health and Safety Code, is amended to read as follows:

Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. The [Except as provided by Section 469.006, the] commissioners court of a county or governing body of a municipality may establish the following types of [a] drug court programs:

(1) drug courts for [program for] persons arrested for, charged with, or convicted of:

(A) [(4)] an offense in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, or marihuana; or

(B) [(2)] an offense in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the offense and the offense did not involve:

(i) [(A)] carrying, possessing, or using a firearm or other dangerous weapon;

(ii) [(B)] the use of force against the person of another; or

(iii) [(C)] the death of or serious bodily injury to another;

(2) drug courts for juveniles detained for, taken into custody for, or adjudicated as having engaged in:

(A) delinquent conduct, including habitual felony conduct, or conduct indicating a need for supervision in which an element of the conduct is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, or marihuana; or

(B) delinquent conduct, including habitual felony conduct, or conduct indicating a need for supervision in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the conduct and the conduct did not involve:

(i) carrying, possessing, or using a firearm or other dangerous weapon;

(ii) the use of force against the person of another; or

(iii) the death of or serious bodily injury to another;

(3) reentry drug courts for persons with a demonstrated history of using alcohol or a controlled substance who may benefit from a program designed to facilitate the person's transition and reintegration into the community on release from a state or local correctional facility;

(4) family dependency drug treatment courts for family members involved in a suit affecting the parent-child relationship in which a parent's use of alcohol or a controlled substance is a primary consideration in the outcome of the suit; or

(5) programs for other persons not precisely described by Subdivisions (1)-(4) who may benefit from a program that has the essential characteristics described by Section 469.001.

SECTION 3. Section 469.003, Health and Safety Code, is amended to read as follows:

Sec. 469.003. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of drug court programs established under this chapter [Section 469.002].

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a drug court program established under this chapter [Section 469.002].

(c) A drug court program established under this chapter shall:

(1) notify the criminal justice division of the governor's office before or on implementation of the program; and

(2) provide information regarding the performance of the program to the division on request.

SECTION 4. Section 469.004, Health and Safety Code, is amended to read as follows:

Sec. 469.004. FEES. (a) A drug court program established under this chapter [Section 469.002] may collect from a participant in the program:

(1) a reasonable program fee not to exceed \$1,000[~~which may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the program~~]; and

(2) an alcohol or controlled substance [a urinalysis] testing, [and] counseling, and treatment fee;

~~[(A) based on the participant's ability to pay; and
[(B)] in an amount necessary to cover the costs of the testing, ~~and~~~~
counseling, and treatment.

(b) Fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the program. The fees must be:

(1) [A drug court program may require a participant to pay all treatment costs incurred while participating in the program,] based on the participant's ability to pay; and

(2) used only for purposes specific to the program.

SECTION 5. Section 469.006, Health and Safety Code, is amended to read as follows:

Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a) The commissioners court of a county with a population of more than 200,000 ~~[550,000]~~ shall establish a drug court program under Subdivision (1) of Section 469.002.

~~(b) [A drug court program required under this section to be established must have at least 100 participants during the first four months in which the program is operating.~~

~~[(c)] A county required under this section to establish a drug court program shall apply for [to the] federal and state [government for any] funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection[, including providing financial assistance to the county].~~

(c) Notwithstanding Subsection (a), a county is required to establish a drug court program under this section only if the county receives federal or state funding, including funding under Article 102.0178, Code of Criminal Procedure, specifically for that purpose.

(d) A county that does not establish a drug court program as required by this section and maintain the program is ineligible to receive from the state:

(1) funds for a community supervision and corrections department; and

(2) grants for substance abuse treatment programs administered by the criminal justice division of the governor's office.

SECTION 6. Section 469.007, Health and Safety Code, is amended to read as follows:

Sec. 469.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS PROGRAMS. In addition to using a drug court program established under this chapter [Section 469.002], the commissioners court of a county or a court may use other drug awareness or drug and alcohol driving awareness programs to treat persons convicted of drug or alcohol related offenses.

SECTION 7. Chapter 469, Health and Safety Code, is amended by adding Sections 469.0025, 469.005, 469.008, and 469.009 to read as follows:

Sec. 469.0025. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The commissioners courts of three or more counties, or the governing bodies of three or more municipalities, may elect to establish a regional drug court program under this chapter for the participating counties or municipalities.

(b) For purposes of this chapter, each county or municipality that elects to establish a regional drug court program under this section is considered to have established the program and is entitled to retain fees under Article 102.0178, Code of Criminal Procedure, in the same manner as if the county or municipality had established a drug court program without participating in a regional program.

Sec. 469.005. DRUG COURT PROGRAMS EXCLUSIVELY FOR CERTAIN INTOXICATION OFFENSES. (a) The commissioners court of a county may establish under this chapter a drug court program exclusively for persons arrested for, charged with, or convicted of an offense involving the operation of a motor vehicle while intoxicated.

(b) A county that establishes a drug court program under this chapter but does not establish a separate program under this section must employ procedures designed to ensure that a person arrested for, charged with, or convicted of a second or subsequent offense involving the operation of a motor vehicle while intoxicated participates in the county's existing drug court program.

Sec. 469.008. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) Notwithstanding Sections 13 and 16, Article 42.12, Code of Criminal Procedure, to encourage participation in a drug court program established under this chapter, the judge or magistrate administering the program may suspend any requirement that, as a condition of community supervision, a participant in the program work a specified number of hours at a community service project or projects.

(b) On a participant's successful completion of a drug court program, a judge or magistrate may excuse the participant from any condition of community supervision previously suspended under Subsection (a).

Sec. 469.009. OCCUPATIONAL DRIVER'S LICENSE. Notwithstanding Section 521.242, Transportation Code, if a participant's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact, as defined by Section 524.001, Transportation Code, or as a result of a conviction under Section 49.04, 49.07, or 49.08, Penal Code, the judge or magistrate administering a drug court program under this chapter may order that an occupational license be issued to the participant. An order issued under this section is subject to Sections 521.248-521.252, Transportation Code, except that any reference to a petition under Section 521.242 of that code does not apply.

SECTION 8. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0178 to read as follows:

Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND DRUG CONVICTIONS. (a) In addition to other costs on conviction imposed by this chapter, a person shall pay \$50 as a court cost on conviction of an offense punishable as a Class B misdemeanor or any higher category of offense under:

- (1) Chapter 49, Penal Code; or
- (2) Chapter 481, Health and Safety Code.

(b) For purposes of this article, a person is considered to have been convicted if:

- (1) a sentence is imposed; or

(2) the defendant receives community supervision or deferred adjudication.

(c) Court costs under this article are collected in the same manner as other fines or costs. An officer collecting the costs shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(d) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) except as provided by Subsection (e), send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(e) A county or municipality is entitled to:

(1) if the custodian of the county or municipal treasury complies with Subsection (d), retain 10 percent of the funds collected under this article by an officer of the county or municipality during the calendar quarter as a service fee; and

(2) if the county or municipality has established a drug court program or establishes a drug court program before the expiration of the calendar quarter, retain in addition to the 10 percent authorized by Subdivision (1) another 50 percent of the funds collected under this article by an officer of the county or municipality during the calendar quarter to be used exclusively for the development and maintenance of drug court programs operated within the county or municipality.

(f) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(g) The comptroller shall deposit the funds received under this article to the credit of the drug court account in the general revenue fund to help fund drug court programs established under Chapter 469, Health and Safety Code. The legislature shall appropriate money from the account solely to the criminal justice division of the governor's office for distribution to drug court programs that apply for the money.

(h) Funds collected under this article are subject to audit by the comptroller.

SECTION 9. Chapter 54, Government Code, is amended by adding Subchapter GG to read as follows:

SUBCHAPTER GG. MAGISTRATES FOR DRUG COURT PROGRAMS

Sec. 54.1801. DEFINITION. In this subchapter, "drug court" has the meaning assigned by Section 469.001, Health and Safety Code.

Sec. 54.1802. APPLICABILITY OF SUBCHAPTER. This subchapter applies to each district court and statutory county court with criminal jurisdiction in this state. If a provision of this subchapter conflicts with a specific provision for a particular district court or statutory county court, the specific provision controls.

Sec. 54.1803. APPOINTMENT. (a) The judges of the district courts of a county hearing criminal cases and the judges of the statutory county courts with criminal jurisdiction in a county, with the consent and approval of the commissioners court of the county, may appoint the number of magistrates set by the commissioners court to perform the duties associated with the administration of drug courts as authorized by this subchapter.

(b) Each magistrate's appointment must be made with the approval of the majority of the district court or statutory county court judges described in Subsection (a), as applicable.

(c) A magistrate appointed under this section serves at the will of a majority of the appointing judges.

Sec. 54.1804. QUALIFICATIONS. A magistrate must:

(1) be a resident of this state and of the county in which the magistrate is appointed to serve under this subchapter; and

(2) have been licensed to practice law in this state for at least four years.

Sec. 54.1805. COMPENSATION. A magistrate is entitled to the salary determined by the county commissioners court.

Sec. 54.1806. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a judge of a district court or statutory county court appointing the magistrate.

Sec. 54.1807. PROCEEDINGS THAT MAY BE REFERRED. (a) A district judge or judge of a statutory county court with criminal jurisdiction may refer to a magistrate a criminal case for drug court proceedings.

(b) A magistrate may not preside over a contested trial on the merits, regardless of whether the trial is before a jury.

Sec. 54.1808. ORDER OF REFERRAL. (a) To refer one or more cases to a drug court magistrate, a district judge or judge of a statutory county court with criminal jurisdiction must issue an order of referral specifying the magistrate's duties.

(b) An order of referral may:

(1) limit the powers of the magistrate and direct the magistrate to report on specific issues and perform particular acts;

(2) set the time and place for the hearing;

(3) provide a date for filing the magistrate's findings;

(4) designate proceedings for more than one case over which the magistrate shall preside; and

(5) set forth general powers and limitations of authority of the magistrate applicable to any case referred.

Sec. 54.1809. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a drug court case is referred may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;
(7) swear witnesses for hearings; and
(8) perform any act and take any measure necessary and proper for the efficient performance of the duties assigned by the district or statutory county court judge.

(b) A magistrate may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the magistrate may make findings, conclusions, and recommendations on those issues.

SECTION 10. Subchapter B, Chapter 102, Government Code, is amended by adding Section 102.0215 to read as follows:

Sec. 102.0215. ADDITIONAL COURT COSTS ON CONVICTION: CODE OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay under the Code of Criminal Procedure, in addition to all other costs, costs attendant to convictions under Chapter 49, Penal Code, and under Chapter 481, Health and Safety Code, to help fund drug court programs established under Chapter 469, Health and Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50.

SECTION 11. (a) Except as otherwise provided by this section, the change in law made by this Act in amending Chapter 469, Health and Safety Code, applies to a defendant who enters a drug court program under Chapter 469, Health and Safety Code, regardless of whether the defendant committed the offense for which the defendant enters the program before, on, or after the effective date of this Act.

(b) The commissioners court of a county required under Section 469.006(a), Health and Safety Code, as amended by this Act, to establish a drug court program shall establish the program not later than the later of:

- (1) September 1, 2008; or
- (2) the first anniversary of the initial date on which the federal census indicates that the county's population exceeds 200,000.

(c) The change in law made by this Act in adding Article 102.0178, Code of Criminal Procedure, and Section 102.0215, Government Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 12. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 530** (Senate committee report) as follows:

In SECTION 8 of the bill, starting on page 4, line 45, strike proposed Article 102.0178 and replace with the following:

Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND DRUG CONVICTIONS. (a) In addition to other costs on conviction imposed by this chapter, a person shall pay \$50 as a court cost on conviction of an offense punishable as a Class B misdemeanor or any higher category of offense under:

- (1) Chapter 49, Penal Code; or
- (2) Chapter 481, Health and Safety Code.

(b) For purposes of this article, a person is considered to have been convicted if:

(1) a sentence is imposed; or
(2) the defendant receives community supervision or deferred adjudication.

(c) Court costs under this article are collected in the same manner as other fines or costs. An officer collecting the costs shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county treasury, as appropriate.

(d) The custodian of a county treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and
(2) except as provided by Subsection (e), send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(e) A county is entitled to:

(1) if the custodian of the county treasury complies with Subsection (d), retain 10 percent of the funds collected under this article by an officer of the county during the calendar quarter as a service fee; and

(2) if the county has established a drug court program or establishes a drug court program before the expiration of the calendar quarter, retain in addition to the 10 percent authorized by Subdivision (1) another 50 percent of the funds collected under this article by an officer of the county during the calendar quarter to be used exclusively for the development and maintenance of drug court programs operated within the county.

(f) If no funds due as costs under this article are deposited in a county treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(g) The comptroller shall deposit the funds received under this article to the credit of the drug court account in the general revenue fund to help fund drug court programs established under Chapter 469, Health and Safety Code. The legislature shall appropriate money from the account solely to the criminal justice division of the governor's office for distribution to drug court programs that apply for the money.

(h) Funds collected under this article are subject to audit by the comptroller.

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

Amend **CSHB 530** (Senate committee report) as follows:

In SECTION 9 of the bill, on page 6, lines 14-29, strike proposed Section 54.1809 and replace with the following:

Sec. 54.1809. POWERS. Except as limited by an order of referral, a magistrate to whom a drug court case is referred may perform any act and take any measure necessary and proper for the efficient performance of the duties assigned by the district or statutory county court judge.

(Elkins now present)

**HB 604 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative D. Howard called up with senate amendments for consideration at this time,

HB 604, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of certain land used for wildlife management under a conservation easement.

Representative D. Howard moved to concur in the senate amendments to **HB 604**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1570): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Coleman; Deshotel.

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

Amend **HB 604** (Senate committee printing) in SECTION 1 of the bill, in amended Subdivision (7), Section 23.51, Tax Code, by striking proposed Paragraph (B) of the subdivision (page 1, lines 49 through 53) and substituting the following:

(B) actively using land to protect federally listed endangered species under a federal permit if the land is:

(i) included in a habitat preserve and is subject to a conservation easement created under Chapter 183, Natural Resources Code; or

(ii) part of a conservation development under a federally approved habitat conservation plan that restricts the use of the land to protect federally listed endangered species; or

(Speaker in the chair)

**HB 1602 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1602, A bill to be entitled An Act relating to venue in civil actions under the Jones Act.

Representative B. Cook moved to concur in the senate amendments to **HB 1602**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1571): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Latham; Mowery.

Absent — Jones.

Senate Committee Substitute

CSHB 1602, A bill to be entitled An Act relating to venue in civil actions under the Jones Act.

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

SECTION 1. Section 15.018, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 15.018. FEDERAL EMPLOYERS' LIABILITY ACT [~~AND JONES ACT~~]. (a) This section only applies to suits brought under the federal Employers' Liability Act (45 U.S.C. Section 51 et seq.) [~~or the Jones Act (46 U.S.C. Section 688)~~].

(b) All suits brought under the federal Employers' Liability Act [~~or the Jones Act~~] shall be brought:

(1) in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred;

(2) in the county where the defendant's principal office in this state is located; or

(3) in the county where the plaintiff resided at the time the cause of action accrued.

SECTION 2. Subchapter B, Chapter 15, Civil Practice and Remedies Code, is amended by adding Section 15.0181 to read as follows:

Sec. 15.0181. JONES ACT. (a) In this section:

(1) "Coastal county" means:

(A) a county in a coastal area, as defined by Section 33.004, Natural Resources Code; or

(B) a county having a United States Customs port through which waterborne freight is transported.

(2) "Coastal erosion" means the loss of land, marshes, wetlands, beaches, or other coastal features because of the actions of wind, waves, tides, storm surges, subsidence, or other forces.

(3) "Erosion response project" means an action intended to address or mitigate coastal erosion, including beach nourishment, sediment management, beneficial use of dredged material, creation or enhancement of a dune, wetland, or marsh, and construction of a breakwater, bulkhead, groin, jetty, or other structure.

(4) "Gulf Coast state" means Louisiana, Mississippi, Alabama, or Florida.

(5) "Inland waters" means the navigable waters shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, the Gulf Intracoastal Waterway, and other inland waters of Texas, Louisiana, Mississippi, Alabama, Arkansas, Tennessee, Missouri, Illinois, Kentucky, or Indiana or of Florida along the Gulf of Mexico shoreline of Florida from the Florida-Alabama border down to and including the shoreline of Key West, Florida. The term does not include the Great Lakes.

(b) This section applies only to suits brought under the Jones Act (46 U.S.C. Section 688).

(c) Except as provided by this section, a suit brought under the Jones Act shall be brought:

(1) in the county where the defendant's principal office in this state is located; or

(2) in the county where the plaintiff resided at the time the cause of action accrued.

(d) If all or a substantial part of the events or omissions giving rise to the claim occurred on the inland waters of this state, ashore in this state, or during the course of an erosion response project in this state, the suit shall be brought:

(1) in the county in which all or a substantial part of the events giving rise to the claim occurred; or

(2) in the county where the defendant's principal office in this state is located.

(e) If all or a substantial part of the events or omissions giving rise to the claim occurred on inland waters outside this state, ashore in a Gulf Coast state, or during the course of an erosion response project in a Gulf Coast state, the suit shall be brought:

(1) in the county where the defendant's principal office in this state is located if the defendant's principal office in this state is located in a coastal county;

(2) in Harris County unless the plaintiff resided in Galveston County at the time the cause of action accrued;

(3) in Galveston County unless the plaintiff resided in Harris County at the time the cause of action accrued; or

(4) if the defendant does not have a principal office in this state located in a coastal county, in the county where the plaintiff resided at the time the cause of action accrued.

SECTION 3. The change in law made by this Act applies only to an action commenced on or after the effective date of this Act. An action commenced before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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

Amend **CSHB 1602** (Senate committee printing) in SECTION 2 of the bill by striking added Subsection (c), Section 15.0181, Civil Practice and Remedies Code (page 1, lines 56 through 61), and substituting the following:

(c) Except as provided by this section, a suit brought under the Jones Act shall be brought:

(1) in the county where the defendant's principal office in this state is located;

(2) in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred; or

(3) in the county where the plaintiff resided at the time the cause of action accrued.

SB 1896 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Delisi, the house granted the request of the senate for the appointment of a conference committee on **SB 1896**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1896**: Delisi, chair; Gonzales, Homer, Hopson, and Zerwas.

SB 426 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hill submitted the conference committee report on **SB 426**.

Representative Hill moved to adopt the conference committee report on **SB 426**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 426** prevailed by (Record 1572): 121 Yeas, 19 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bailey; Berman; Bolton; Branch; Brown, B.; Brown, F.; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Moreno; Murphy; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Anderson; Bohac; Bonnen; Callegari; Darby; Flynn; Hancock; Harper-Brown; King, P.; Laubenberg; Macias; Miller; Morrison; O'Day; Parker; Paxton; Phillips; Taylor; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Latham; Mowery.

Absent — Burnam; Davis, J.; Elkins; Hardcastle; Jones; Martinez Fischer.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1572. I intended to vote no.

Creighton

I was shown voting yes on Record No. 1572. I intended to vote no.

Harless

(Hardcastle in the chair)

HB 88 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Branch submitted the following conference committee report on **HB 88**:

Austin, Texas, May 17, 2007

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 88** - Simba's Law have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa

Branch

Seliger

Anderson

Brimer

Aycock

Lucio

Cohen

Jackson

Corte

On the part of the senate

On the part of the house

HB 88, A bill to be entitled An Act relating to the evacuation and sheltering of service animals and household pets in a disaster.

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

SECTION 1. This Act shall be known as Simba's Law.

SECTION 2. Section 418.043, Government Code, is amended to read as follows:

Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

(1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;

(2) procure and position supplies, medicines, materials, and equipment;

(3) adopt standards and requirements for local and interjurisdictional emergency management plans;

(4) periodically review local and interjurisdictional emergency management plans;

(5) coordinate deployment of mobile support units;

(6) establish and operate training programs and programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;

(7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;

(8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;

(9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;

(10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;

(11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;

(12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;

(13) [~~(12)~~] cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery; and

(14) [~~(13)~~] do other things necessary, incidental, or appropriate for the implementation of this chapter.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Representative Branch moved to adopt the conference committee report on **HB 88**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 88** prevailed by (Record 1573): 142 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla;

Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Harper-Brown.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Farrar; Martinez Fischer.

HB 1270 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Eissler submitted the following conference committee report on **HB 1270**:

Austin, Texas, May 17, 2006

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1270** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte

Averitt

Shapiro

Zaffirini

Janek

On the part of the senate

Eissler

Dutton

Kolkhorst

Hochberg

Branch

On the part of the house

HB 1270, A bill to be entitled An Act relating to an intensive reading or language intervention pilot program at certain public school campuses.

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

SECTION 1. Section 29.094, Education Code, is reenacted and amended to read as follows:

Sec. 29.094. INTENSIVE READING OR [~~AND~~] LANGUAGE INTERVENTION PILOT PROGRAM. (a) In this section, "pilot program" means the intensive reading or [~~and~~] language intervention pilot program.

(b) The commissioner by rule shall [~~may~~] establish a pilot program in which a participating campus provides intensive reading or [~~and~~] language intervention to participating students.

(c) A [~~If the commissioner establishes the pilot program, a~~] campus may apply to the commissioner to participate in the pilot program. The commissioner may select for participation in the pilot program only campuses that have failed to improve student performance in reading according to standards established by the

commissioner. The standards established by the commissioner for purposes of this subsection must be based on reading performance standards required for student promotion under Section 28.0211.

(d) ~~The [If the commissioner establishes the pilot program, the]~~ commissioner shall adopt minimum criteria that a program must meet to be selected by a participating campus for use in providing intensive reading or ~~[and]~~ language intervention. The criteria must include neuroscience-based, scientifically validated methods, scientifically based reading interventions, or instructional tools that have been proven to accelerate language acquisition and reading proficiency for struggling readers ~~[learning, cognitive ability, and language proficiency]~~. A participating campus shall submit a summary of the campus's proposed intensive intervention program to the commissioner for approval. The commissioner may approve only a program that follows the minimum criteria adopted under this subsection.

(e) The principal of a participating campus, in consultation with classroom teachers at the campus, shall select students to participate in the pilot program based on assessment data. Benchmark measures shall be administered at the beginning and end of the program ~~[A participating campus shall assess each selected student before the student enters and after the student transfers out of the pilot program to measure the student's progress]~~.

(f) Not later than December 31, 2008 ~~[2006]~~, any vendor of an intensive intervention program approved under Subsection (d), in consultation with the agency and each school district with which the vendor contracts under this section, shall provide the legislature with a report describing student progress under the assessments administered to participating students under Subsection (e).

(g) Notwithstanding any other law, the commissioner shall ~~[may]~~ provide funding for the pilot program using not more than \$6 million of funding appropriated for purposes of Section 28.0211.

(h) ~~The [If the commissioner establishes the pilot program, the]~~ commissioner shall adopt rules necessary to implement this section.

(i) ~~The [If the commissioner establishes the pilot program, the]~~ commissioner shall make the pilot program available to participating campuses during the 2007-2008 and 2008-2009 ~~[2005-2006 and 2006-2007]~~ school years.

~~[(j) This section expires July 1, 2007.]~~

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Representative Eissler moved to adopt the conference committee report on **HB 1270**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1270** prevailed by (Record 1574): 128 Yeas, 13 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Moreno; Morrison; Murphy; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Anderson; Bonnen; Callegari; Corte; Crabb; Elkins; Harper-Brown; Hilderbran; Howard, C.; Hughes; Miller; O'Day; Phillips.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Coleman; Hill; Veasey.

STATEMENT OF VOTE

When Record No. 1574 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

HB 3505 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3505, A bill to be entitled An Act relating to requirements for judicial training on issues regarding family violence, sexual assault, and child abuse and neglect.

Representative Hartnett moved to concur in the senate amendments to **HB 3505**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1575): 138 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton;

Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Phillips.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Burnam; Coleman; Delisi; Martinez Fischer; Taylor; Veasey.

STATEMENT OF VOTE

When Record No. 1575 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

Senate Committee Substitute

CSHB 3505, A bill to be entitled An Act relating to requirements for judicial training on issues regarding family violence, sexual assault, and child abuse and neglect.

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

SECTION 1. The heading to Section 22.110, Government Code, is amended to read as follows:

Sec. 22.110. JUDICIAL INSTRUCTION RELATED TO FAMILY VIOLENCE, SEXUAL ASSAULT, AND CHILD ABUSE AND NEGLECT.

SECTION 2. Section 22.110, Government Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsection (d-1) to read as follows:

(a) The court of criminal appeals shall assure that judicial training related to the problems of family violence, sexual assault, and child abuse and neglect is provided.

(b) The court of criminal appeals shall adopt the rules necessary to accomplish the purposes of this section. The rules must require each district judge, judge of a statutory county court, associate judge appointed under Chapter 54 of this code or Chapter 201, Family Code, master, referee, and magistrate to complete at least 12 ~~eight~~ hours of the training within the judge's first term of office or the judicial officer's first four years of service and provide a method for certification of completion of that training. At least four hours of the training must be dedicated to issues related to child abuse and neglect and must cover at

least two of the topics described in Subsections (d)(8)-(12). At least six hours of the training must be dedicated to the training described by Subsections (d)(5), (6), and (7). The rules must require each judge and judicial officer to complete an additional five ~~three~~ hours of training during each additional term in office or four years of service. At least two hours of the additional training must be dedicated to issues related to child abuse and neglect. The rules must exempt from the training requirement of this subsection each judge or judicial officer who files an affidavit stating that the judge or judicial officer does not hear any cases involving family violence, sexual assault, or child abuse and neglect.

(c) In adopting the rules, the court of criminal appeals may consult with the supreme court and with professional groups and associations in the state that have expertise in the subject matter to obtain the recommendations of those groups or associations for instruction content.

(d) The instruction must include information about:

(1) statutory and case law relating to videotaping a child's testimony and relating to competency of children to testify;

(2) methods for eliminating the trauma to the child caused by the court process;

(3) case law, statutory law, and procedural rules relating to family violence, sexual assault, and child abuse and neglect;

(4) methods for providing protection for victims of family violence, sexual assault, and ~~or~~ child abuse and neglect;

(5) available community and state resources for counseling and other aid to victims and to offenders;

(6) gender bias in the judicial process; ~~and~~

(7) dynamics and effects of being a victim of family violence, sexual assault, or child abuse and neglect;

(8) dynamics of sexual abuse of children, including child abuse accommodation syndrome and grooming;

(9) impact of substance abuse on an unborn child and on a person's ability to care for a child;

(10) issues of attachment and bonding between children and caregivers;

(11) issues of child development that pertain to child abuse and neglect;

and

(12) medical findings regarding physical abuse, sexual abuse, and child abuse and neglect.

(d-1) The sponsoring organization for any training on issues related to child abuse and neglect must have at least three years' experience in training professionals on child abuse and neglect issues and have personnel or planning committee members who have at least five years' experience in working directly in the field of child abuse and neglect prevention and treatment.

SECTION 3. The change in law made by this Act to Section 22.110, Government Code, regarding the training required in the first term or first four years of office, applies only to a judge or judicial officer who has not completed the initial training related to family violence, sexual assault, and child abuse and neglect required by that section before September 1, 2007.

SECTION 4. This Act takes effect September 1, 2007.

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

Amend **CSHB 3505**, SECTION 2, by striking "and" (page 2, line 16) and substituting "or".

**HB 3446 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3446, A bill to be entitled An Act relating to the promotion by the governor's office of economic development of Texas manufactured products; providing civil and administrative penalties.

Representative Rose moved to concur in the senate amendments to **HB 3446**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1576): 142 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Harper-Brown.

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

Absent, Excused — Driver; Latham; Mowery.

Absent — Gallego; Noriega.

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

Amend **HB 3446** in proposed Subdivision (6), Section 490C.053, Government Code (Senate committee printing, page 1, line 51), by striking "cooperate" and substituting "enter into a memorandum of understanding".

COMMITTEE GRANTED PERMISSION TO MEET

Representative J. Davis requested permission for the Committee on Appropriations, Subcommittee on Health and Human Services, to meet while the house is in session, 11:30 a.m. today, in 1W.14, for a formal meeting, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Appropriations, Subcommittee on Health and Human Services, 11:30 a.m. today, 1W.14, for a formal meeting, to consider pending business.

**PROCLAMATIONS BY THE GOVERNOR
OF THE STATE OF TEXAS**

The chair laid before the house and had read the following proclamations by the governor:

TO THE MEMBERS OF THE SENATE AND HOUSE OF
REPRESENTATIVES OF THE EIGHTIETH TEXAS LEGISLATURE,
REGULAR SESSION:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove and veto **HB 1892** of the 80th Texas Legislature, Regular Session, due to the following objections:

HB 1892 jeopardizes billions of dollars of infrastructure investment and invites a potentially significant reduction in federal transportation funding. Projects important to fast-growth communities would be placed on hold without alternative financing mechanisms to get them constructed. Even more egregiously, the bill serves to break up the state highway system by permitting local control over state assets.

While I support greater local decision-making authority over transportation planning, I do not support turning over state assets to local entities. By allowing local entities to seize state rights-of-way at any moment, **HB 1892** prohibits the Texas Department of Transportation's ability to issue any road-based debt instruments, such as toll revenue bond, comprehensive development agreements, and pass through financing deals. As a state that grows by 1,200 people each and every day, we must consider every viable option that will allow Texas to build a strong transportation infrastructure to support present and future growth.

I am grateful that legislators are working with me in subsequent legislation to address these concerns I have expressed about **HB 1892** and look forward to receiving **SB 792** without delay.

Since you remain gathered in regular session and continue to conduct formal business, I am delivering this disapproval message directly to you along with the official enrolled copy of the bill.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of May, 2007.

Rick Perry
Governor of Texas

(SEAL)
Roger Williams
Secretary of State

TO ALL TO WHOM THESE PRESENTS SHALL COME:

TO THE MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTIETH TEXAS LEGISLATURE, REGULAR SESSION:

Pursuant to Article IV, Sections 14 and 15 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove and veto **HCR 230** of the 80th Texas Legislature, Regular Session, due to the following objections:

HCR 230 seeks to correct several errors that were made in **HB 1892**.

Now that I have disapproved and vetoed **HB 1892** since it jeopardizes billions of dollars of infrastructure investment and invites a potentially significant reduction in federal transportation funding, there is no need for this corrective resolution.

I am grateful that legislators are working with me in subsequent legislation to address the concerns I have expressed about **HB 1892** and look forward to receiving **SB 792** without delay.

Since you remain gathered in regular session and continue to conduct formal business, I am delivering this disapproval message directly to you along with the official enrolled copy of the bill.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 18th day of May, 2007.

Rick Perry
Governor of Texas

(SEAL)
Roger Williams
Secretary of State

POSTPONED BUSINESS

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

SB 1332 ON SECOND READING **(Chavez - House Sponsor)**

SB 1332, A bill to be entitled An Act relating to the establishment of debt management policies and guidelines by the Bond Review Board, including the approval by the board of certain interest rate management agreements.

SB 1332 was read second time on May 16 and was postponed until 1 p.m. May 18.

Representative Chavez moved to postpone consideration of **SB 1332** until 1 p.m. today.

The motion prevailed.

CSSB 11 ON SECOND READING
(Corte - House Sponsor)

CSSB 11, A bill to be entitled An Act relating to homeland security; providing penalties.

CSSB 11 was read second time on May 18, amendments were offered and disposed of, and **CSSB 11** was postponed until 10 a.m. today.

Amendment No. 1 - Vote Reconsidered

Representative Corte moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 1 was withdrawn.

(Speaker in the chair)

Amendment No. 3

Representative Corte offered the following amendment to **CSSB 11**:

Amend **CSSB 11** (house committee printing) by striking ARTICLES 6 and 9 from the bill and renumbering remaining ARTICLES accordingly.

CSSB 11 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSSB 11** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Corte moved to postpone consideration of **CSSB 11** until 2 p.m. today.

The motion prevailed.

MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING

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

CSSB 7 ON SECOND READING
(Eissler - House Sponsor)

CSSB 7, A bill to be entitled An Act relating to instruction in cardiopulmonary resuscitation, the availability and use of automated external defibrillators at certain school campuses and athletic events, and the creation of a cardiovascular screening pilot program.

Amendment No. 1

Representative Eissler offered the following amendment to **CSSB 7**:

Amend **CSSB 7** in SECTION 6 of the substitute by striking added Section 38.017(f), Education Code (page 5, line 26, through page 6, line 3), and substituting:

(f) This section does not:

(1) waive any immunity from liability of a school district or its officers or employees;

(2) create any liability for or a cause of action against a school district or its officers or employees; or

(3) waive any immunity from liability under Section 74.151, Civil Practice and Remedies Code.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Vo offered the following amendment to **CSSB 7**:

Amend **CSSB 7** (house committee printing) in SECTION 6 of the bill, in added Section 38.017, Education Code (page 6, between lines 15 and 16), by inserting the following:

(h) A school district may seek and accept gifts, grants, or other donations to pay the district's cost of purchasing automated external defibrillators required under this section.

Amendment No. 2 was adopted.

CSSB 7, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, upon lunch recess today, Desk 89, for a formal meeting, to consider resolutions for the next calendar.

RECESS

At 11:55 a.m., the speaker announced that the house would stand recessed until 1:15 p.m. today.

AFTERNOON SESSION

The house met at 1:15 p.m. and was called to order by the speaker.

LEAVE OF ABSENCE GRANTED

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

Noriega on motion of J. Davis.

POSTPONED BUSINESS

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

SB 1332 ON SECOND READING (Chavez - House Sponsor)

SB 1332, A bill to be entitled An Act relating to the establishment of debt management policies and guidelines by the Bond Review Board, including the approval by the board of certain interest rate management agreements.

SB 1332 was read second time on May 16, postponed until 1 p.m. May 18, and was again postponed until 1 p.m. today.

Amendment No. 1

Representative Chavez offered the following amendment to **SB 1332**:

Amend **SB 1332** (house committee printing) by adding the following sections to the bill, numbered appropriately, and renumbering the subsequent sections of the bill accordingly:

SECTION _____. Section 1231.001, Government Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including a swap, basis, forward, option, cap, collar, floor, lock, or hedge transaction, for a transaction similar to those types of transactions, or for a combination of any of those types of transactions. The term includes:

(A) a master agreement that provides standard terms for transactions;

(B) an agreement to transfer collateral as security for transactions;
and

(C) a confirmation of transactions.

SECTION _____. Section 1231.023(c), Government Code, is amended to read as follows:

(c) The board shall adopt policies that:

(1) provide a mechanism for evaluating the amount of state debt that can be managed prudently;

(2) address opportunities to consolidate debt authority;

(3) include guidelines for:

(A) appropriate levels of reserves;

(B) the types of state security that should be issued under various circumstances; and

- (C) the terms or structure of a state security;
- (4) help the board and issuers of state securities to evaluate:
 - (A) the potential risks involved in the issuance of a state security or in the execution of an interest rate management agreement; and
 - (B) the effect that the issuance of a state security or that the execution of an interest rate management agreement will have on the finances and on the overall debt position of the issuer and of the state; and
- (5) recommend other advisable practices related to the issuance of a state security.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Deshotel offered the following amendment to **SB 1332**:

Amend **SB 1332** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Section 1372.031, Government Code, is amended to read as follows:

Sec. 1372.031. PRIORITIES FOR RESERVATIONS AMONG CERTAIN ISSUERS. (a) Except as provided by Subsection (b) and subject [Subject] to Sections 1372.0321 and 1372.0231, if, on or before October 20, more than one issuer in a category described by Section 1372.022(a)(2), (3), (4), or (6) applies for a reservation of the state ceiling for the next program year, the board shall grant reservations in that category in the order determined by the board by lot.

(b) Until August 1 of the program year, within the category described by Section 1372.022(a)(6), the board shall grant priority to the Texas Economic Development Bank for projects that the Texas Economic Development and Tourism Office determines meet the governor's criteria for funding from the Texas Enterprise Fund. Notwithstanding the priority, the Texas Economic Development Bank may not receive an amount greater than one-sixth of the portion of the state ceiling available under Section 1372.022(a)(6) on January 1 of the program year.

(c) In selecting projects for reservations of the state ceiling for a program year under Subsection (b), among those projects the Texas Economic Development and Tourism Office determines meet the governor's criteria for funding from the Texas Enterprise Fund the office shall give priority to obtaining reservations for those projects located or to be located in an economically depressed or blighted area, as defined by Section 2306.004, or in an enterprise zone designated under Chapter 2303.

(d) This section and Section 1372.063 do not give a priority to any project described by Subsection (b) for the purpose of selecting projects for reservations under Section 1372.022(b).

(e) The Texas Economic Development Bank is subject to Section 1201.027(d).

SECTION _____. Section 1372.063, Government Code, is amended to read as follows:

Sec. 1372.063. PRIORITY 1 CARRYFORWARD CLASSIFICATION.

The priority 1 carryforward classification applies to:

(1) an issuer of a state-voted issue; and
(2) a state agency, other than an issuer of a state-voted issue, that applies for a carryforward designation for a project that:

(A) is described by Section 1372.067(a)(2); and

(B) the Texas Economic Development and Tourism Office determines meets the governor's criteria for funding from the Texas Enterprise Fund.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Alonzo offered the following amendment to **SB 1332**:

Amend **SB 1332** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.123 to read as follows:

Sec. 1232.124. PREFERENCE FOR TEXAS BUSINESSES. If the authority contracts with a private entity to issue bonds under this chapter, the authority shall consider contracting with:

(1) an entity that has its principal place of business in this state; and

(2) a historically underutilized business as defined by Section 2161.001.

Amendment No. 3 was adopted.

Amendment No. 4

Representative P. King offered the following amendment to **SB 1332**:

Amend **SB 1332** by adding the following section to the bill, numbered appropriately, and renumbering the subsequent sections of the bill accordingly:

SECTION _____. Section 1231.001(2), Government Code, is amended to read as follows:

(2) "State security" means:

(A) an obligation, including a bond, issued by:

(i) a state agency;

(ii) an entity that is expressly created by statute and has statewide jurisdiction; or

(iii) an entity issuing the obligation on behalf of this state or on behalf of an entity described by Subparagraph (i) or (ii); ~~or~~

(B) an installment sale or lease-purchase obligation that is issued by or on behalf of an entity described by Paragraph (A) and that has:

(i) a stated term of more than five years; or

(ii) an initial principal amount of more than \$250,000; or

(C) a contractual obligation, including a lease, that is entered into, issued, or incurred by or for an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college, and that has:

(i) a stated term of more than five years; or

(ii) an initial principal amount of more than \$250,000.

Amendment No. 4 was adopted.

SB 1332, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

MAJOR STATE CALENDAR
(consideration continued)

SB 23 ON SECOND READING
(Smithee - House Sponsor)

SB 23, A bill to be entitled An Act relating to promoting the purchase and availability of health coverage.

Representative Smithee moved to postpone consideration of **SB 23** until 2 p.m. today.

The motion prevailed.

CSSB 785 ON SECOND READING
(Morrison - House Sponsor)

CSSB 785, A bill to be entitled An Act relating to information related to the performance of an abortion; creating an offense.

Representative Morrison moved to postpone consideration of **CSSB 785** until 2 p.m. today.

The motion prevailed.

CSSB 909 ON SECOND READING
(Madden, Kolkhorst, Flynn, Hochberg, and B. Cook - House Sponsors)

CSSB 909, A bill to be entitled An Act relating to the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee, and to the functions of the Board of Pardons and Paroles.

Amendment No. 1

Representative Madden offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 495, Government Code, is amended by adding Sections 495.025 and 495.026 to read as follows:

Sec. 495.025. CERTAIN COMMISSARY CONTRACTS; TASTE TESTS.

(a) For the purchase of commissary food goods, the department may conduct a taste test as consideration for a bid award only if, to conduct the test, the department contracts with a private marketing vendor, a university, or another independent organization that is experienced in food product evaluation and taste tests.

(b) In awarding a bid for commissary food goods for which a taste test is conducted, the department may use the taste test results as not more than 30 percent of the criteria used for the bid award.

(c) A contract into which the department enters under Subsection (a) must require the vendor, university, or other organization, at the expense of the vendor, university, or organization, to annually re-conduct the taste test to ensure that the product meets the original specifications of the request for proposal that resulted in the department entering a contract for the tested product.

Sec. 495.026. PRODUCT BUNDLING, BULK PURCHASING, AND VENDOR DISCOUNTS. The department may provide for the practice of bundling products into categories to ensure savings through bulk purchasing, discounts for advance invoice payments, and online ordering.

SECTION ____. Sections 495.025 and 495.026, Government Code, as added by this Act, apply only to a contract that the Texas Department of Criminal Justice enters on or after the effective date of this Act. A contract that the department enters before the effective date of this Act is governed by the law in effect at the time the contract is entered, and that law is continued in effect for that purpose.

Amendment No. 2

Representative McReynolds offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Madden to **CSSB 909** as follows:

(1) On page 1, line 5, strike "Sections 495.025 and 495.026" and substitute "Sections 495.025, 495.026, and 495.027".

(2) On page 1, line 25, strike "shall" and substitute "may".

(3) On page 1, between lines 28 and 29, insert the following:

Sec. 495.027. PREFERENCE FOR CONTRACTORS PROVIDING FOODS OF HIGHER NUTRITIONAL VALUE. (a) In awarding a bid for food goods for a cafeteria in a department facility, the department shall give preference to contractors who provide foods of higher nutritional value and who do not provide foods containing trans fatty acids for consumption in the cafeteria.

(b) In complying with this section, the department shall review the Department of Agriculture's nutrition standards.

(4) On page 1, line 29, strike "Sections 495.025 and 495.026" and substitute "Sections 495.025, 495.026, and 495.027".

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

Amendment No. 3

Representative Madden offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Report) in SECTION 25 of the bill by striking added Subsection (f), Section 508.033, Government Code (page 27, lines 10-13), and substituting the following:

(f) A person who is a current or former member or employee of the board or a current or former employee of the department may not serve as a parole commissioner before the second anniversary of the date the person's membership on or employment with the board ceases.

Amendment No. 3 was withdrawn.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **HB 1**:

Kolkhorst on motion of Crownover.

CSSB 909 - (consideration continued)**Amendment No. 4**

Representative Madden offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 19, Article 42.12, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (g) to read as follows:

(a) Except as otherwise provided by this subsection, a judge granting community supervision shall fix a fee of not less than \$25 and not more than \$60 per month to be paid during the period of community supervision by the defendant to the court of original jurisdiction or, in the case of an intrastate transfer described by Section 10(b) of this article, to the court to which jurisdiction of the defendant's case is transferred [~~by the defendant during the community supervision period~~]. The judge may make payment of the fee a condition of granting or continuing the community supervision. The judge may waive or reduce the fee or suspend a monthly payment of the fee if the judge determines that payment of the fee would cause the defendant a significant financial hardship.

(b) A ~~The~~ judge shall deposit any fee ~~the fees~~ received under Subsection (a) of this section in the special fund of the county treasury, to be used for the same purposes for which state aid may be used under Chapter 76, Government Code.

(g) A court to which jurisdiction of a defendant's case is transferred under Section 10(b) of this article shall enter an order directing the defendant to pay the monthly fee described by Subsection (a) of this section to that court in lieu of

paying the monthly fee to the court of original jurisdiction. To the extent of any conflict between an order issued under this subsection and an order issued by a court of original jurisdiction, the order entered under this subsection prevails.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Madden offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (house committee printing) as follows:

(1) In SECTION 13 of the bill, in proposed Subsection (a), Section 493.027, Government Code (page 13, line 13), strike "(a)".

(2) In SECTION 13 of the bill, in proposed Subsection (a), Section 493.027, Government Code (page 13, line 14), strike "shall meet" and substitute "may meet".

(3) In SECTION 13 of the bill, in proposed Subsection (a), Section 493.027, Government Code (page 13, lines 16-18), strike "that represents department employees in disciplinary or grievance matters".

(4) In SECTION 13 of the bill, in proposed Section 493.027, Government Code (page 13, line 25, through page 14, line 6), strike proposed Subsection (b).

Amendment No. 6

Representative Hochberg offered the following amendment to Amendment No. 5:

Amend Floor Amendment No. 5 on **CSSB 909** by Madden by striking Item (2) of the amendment (page 1, lines 4 through 6) and substituting the following:

(2) In SECTION 13 of the bill, in proposed Subsection (a), Section 493.027, Government Code (page 13, line 14), strike "regularly".

Amendment No. 6 was adopted.

Amendment No. 5, as amended, was adopted.

Amendment No. 7

Representative Hodge offered the following amendment to **CSSB 909**:

Amend Amendment No. ____ to **CSSB 909** by Hodge as follows:

(1) On page 1, line 4, of the amendment strike "department employee" and substitute "member of the board may not serve as a parole commissioner before the second anniversary of the date the person's membership on the board ceases.".

(2) On page 1, strike lines 5 through 10 of the amendment.

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Gattis offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) by striking SECTION 2 of the bill and renumbering subsequent SECTIONS of the bill accordingly.

Amendment No. 8 was withdrawn.

Amendment No. 9

Representative Gattis offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) in SECTION 2 as follows:

(1) In the recital to SECTION 2 (page 3, line 5), between "(i)," and "(j)", insert "(i-1),".

(2) In added Subsection (i), Section 15, Article 42.12, Code of Criminal Procedure (page 3, lines 8 and 9), between "may" and "release", insert ", subject to Subsection (i-1),".

(3) In amended Section 15, Article 42.12, Code of Criminal Procedure (page 3, between lines 26 and 27), insert the following:

(i-1) The judge may not enter an order releasing a defendant to a medically suitable placement under Subsection (i) without holding a hearing and providing to the attorney representing the state and to the defendant the opportunity to present evidence on the matter.

Amendment No. 9 was adopted.

Amendment No. 10

Representative Gattis offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) in SECTION 3, in amended Section 20, Article 42.12, Code of Criminal Procedure (page 5, between lines 20 and 21), by inserting the following:

(a-1) The judge may not enter an order terminating community supervision under Subsection (a) without holding a hearing and providing to the attorney representing the state and to the defendant the opportunity to present evidence on the matter.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Gattis offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) in SECTION 3, in amended Section 20, Article 42.12, Code of Criminal Procedure (page 5, lines 21-27), by striking Subsection (b) and substituting the following:

(b) This section does not apply to a defendant convicted of an offense under Sections 49.04-49.08, Penal Code, a defendant convicted of an offense for which on conviction registration as a sex offender is required under Chapter 62, a defendant convicted of a felony described by Section 3g[, ~~as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997~~], or a defendant convicted of an offense punishable as a state jail felony.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Gattis offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (house committee printing) in SECTION 6, in added Section 76.019, Government Code, as follows:

(1) In Subsection (c)(1) (page 8, line 5), strike "or".

(2) In Subsection (c)(2)(B) (page 8, line 11), strike the period and substitute:

; or

(3) during the period of community supervision:

(A) has been the subject of a motion to revoke community supervision;

(B) has committed a criminal offense;

(C) has failed to appear as required before a department officer on three or more occasions;

(D) has tested positive on three or more occasions for use of alcohol or controlled substances or dangerous drugs; or

(E) is prohibited by a protective order, condition of release on bond, or condition of community supervision from communicating with or going within a specified distance of any person.

(3) Immediately after Subsection (c) (page 8, between lines 11 and 12), insert the following:

(d) A department may not recommend the reduction or termination of a period of community supervision for a defendant under this section unless the department first provides notice to a victim of the defendant's offense, as indicated on a victim impact statement, and provides the defendant with an opportunity to comment on the recommendation.

Amendment No. 12 was adopted.

(Crownover in the chair)

Amendment No. 13

Representative Truitt offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (house committee printing) in SECTION 9 of the bill, in amended Section 492.012, Government Code (page 11, line 1), by striking "2011" and substituting "2019".

(Driver now present)

(Speaker in the chair)

Representative Madden moved to table Amendment No. 13.

A record vote was requested.

The motion to table prevailed by (Record 1577): 126 Yeas, 16 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hamilton; Hardcastle; Hartnett; Heflin; Hernandez; Herrero;

Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Hughes; Jackson; Keffer; King, S.; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Murphy; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Anderson; Bonnen; Brown, F.; Flynn; Hancock; Harless; Harper-Brown; Howard, D.; Isett; King, T.; McClendon; Morrison; O'Day; Parker; Patrick; Truitt.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Latham; Mowery; Noriega.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Goolsby; Jones; King, P.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

CSSB 909 - (consideration continued)

Amendment No. 14

Representative Hodge offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) by striking added Subsection (f), Section 508.033, Government Code (page 27, lines 10-13), and substituting the following:

(f) A person who is a current or former department employee may not serve as a parole commissioner before the second anniversary of the date the person's employment with the department ceases if the person's job description or routine job duties while employed by the department include supervising other department employees who directly supervise inmates or directly ensure inmate welfare and safety.

Amendment No. 15

Representative Hodge offered the following amendment to Amendment No. 14:

Amend Amendment No. 14 to **CSSB 909** by Hodge as follows:

(1) On page 1, line 4, of the amendment strike "department employee" and substitute "member of the board may not serve as a parole commissioner before the second anniversary of the date the person's membership on the board ceases.".

(2) On page 1, strike lines 5 though 10 of the amendment.

Amendment No. 15 was adopted.

Amendment No. 14, as amended, was adopted.

Amendment No. 16

Representative Gattis offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) in SECTION 35, in added Subsection (i), Section 509.011, Government Code, as follows:

- (1) On page 37, line 23, immediately after "supervision;", add "and".
- (2) On page 37, lines 24-27, strike existing Subdivision (2).
- (3) On page 38, line 1, strike "(3)" and substitute "(2)".

Amendment No. 16 was adopted.

Amendment No. 17

Representative Gattis offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (house committee printing) in SECTION 35 of the bill as follows:

(1) In the recitation to SECTION 35 (page 36, line 9) strike "and (j)" and substitute ", (j), and (k)".

(2) In amended Section 509.011, Government Code, immediately after added Subsection (j) (page 38, between lines 9 and 10) insert the following:

(k) For purposes of Subsection (i)(2), the community supervision of a felony defendant is not revoked due to a technical violation of a condition of community supervision if the revocation is based on:

(1) the failure of the defendant to complete court-ordered treatment or counseling;

(2) the failure of the defendant to pay fees, fines, court costs, or restitution that the defendant has the ability to pay;

(3) the commission of a new criminal offense by the defendant;

(4) the failure of the defendant to appear as required before a community supervision and corrections department officer on three or more occasions;

(5) a positive test by the defendant on three or more occasions for use of alcohol or controlled substances or dangerous drugs; or

(6) the existence of a protective order, condition of release on bond, or condition of community supervision that prohibits the defendant from communicating with or going within a specified distance of any person.

Amendment No. 18

Representative Phillips offered the following amendment to Amendment No. 17:

Amend Amendment No. 17 by Gattis to **CSSB 909** by adding the following appropriately numbered item to the amendment and renumbering subsequent items of the amendment accordingly:

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

SECTION _____. Article 42.14, Code of Criminal Procedure, is amended to read as follows:

Art. 42.14. IN ABSENCE OF DEFENDANT. (a) In a misdemeanor case, the [The] judgement and sentence [in a misdemeanor case] may be rendered in the absence of the defendant.

(b) In a felony case, the judgement and sentence may be rendered in the absence of the defendant only if:

(1) the defendant is imprisoned in a penal institution;

(2) the defendant in writing before a district court having jurisdiction in the county where the defendant is imprisoned:

(A) waives the right to be present at the rendering of the judgement and sentence or to have counsel present;

(B) affirms that the defendant does not have anything to say as to why the sentence should not be pronounced and that there is no reason to prevent sentence under Article 42.07;

(C) states that the defendant has entered into a written plea agreement with the attorney representing the state in the prosecution of the case; and

(D) requests the judge to pronounce sentence in the case in accordance with the plea agreement;

(3) the defendant and the attorney representing the state in the prosecution of the case have entered into a written plea agreement that is made a part of the record in the case; and

(4) sentence is pronounced in accordance with the plea agreement.

(c) In this article, "penal institution" has the meaning assigned by Section 1.07, Penal Code.

SECTION _____. Article 42.14, Code of Criminal Procedure, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

Amendment No. 18 was adopted.

Amendment No. 19

Representative Alonzo offered the following amendment to Amendment No. 17:

Amend Amendment No. 17 by Gattis to **CSSB 909** (House Committee Printing) by adding the following appropriately numbered item to the amendment and renumbering existing items of the amendment accordingly:

() Section 16, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) In lieu of requiring a defendant to work a specified number of hours at a community service project or projects under Subsection (a), the judge may order a defendant to make a specified donation to a nonprofit food bank or food pantry in the community in which the defendant resides.

Amendment No. 19 was adopted.

Amendment No. 17, as amended, was adopted.

Amendment No. 20

Representative Smithee offered the following amendment to **CSSB 909**:

Amend **CSSB 909** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 501, Government Code, is amended by adding Section 501.011 to read as follows:

Sec. 501.011. ZERO-TOLERANCE POLICY. (a) The department shall adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of inmates in the custody of the department.

(b) The department shall establish standards for reporting and collecting data on the sexual abuse of inmates in the custody of the department.

(c) The department shall establish a procedure for inmates in the custody of the department and department employees to report incidents of sexual abuse involving an inmate in the custody of the department. The procedure must designate a person employed at the department facility in which the abuse is alleged to have occurred as well as a person who is employed at the department's headquarters to whom a person may report an incident of sexual abuse.

(d) The department shall prominently display the following notice in the office of the chief administrator of each department facility, the employees' break room of each department facility, the cafeteria of each department facility, and at least six additional locations in each department facility:

THE TEXAS LEGISLATURE HAS ADOPTED A ZERO-TOLERANCE POLICY REGARDING THE SEXUAL ABUSE, INCLUDING CONSENSUAL SEXUAL CONTACT, OF AN INMATE IN THE CUSTODY OF THE DEPARTMENT. ANY SUCH VIOLATION MUST BE REPORTED TO

Amendment No. 20 was adopted.

Amendment No. 21

Representative Smithee offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) The Texas Department of Criminal Justice shall conduct a study regarding:

(1) the number of inmates confined in facilities operated by or under contract with the department who pose no significant risk of recidivism or danger to society due to the:

(A) inmate's age or health;

(B) nature of the crime committed by the inmate; or

(C) reasonably successful rehabilitation of the inmate while incarcerated;

(2) alternatives to confining inmates described by Subdivision (1) in a facility operated by or under contract with the department;

(3) to the extent permitted by federal law, the possibility of conducting a prisoner exchange with the United Mexican States or another foreign country in which foreign nationals in the custody of the department are exchanged for United States citizens incarcerated in another country; and

(4) measures that the department can take to assure that inmates sent to a foreign country under a prisoner exchange described by Subdivision (3) will not be released early.

(b) The department shall submit a report to the members of the 81st Legislature regarding the results of the study conducted under Subsection (a).

Amendment No. 21 was adopted.

Amendment No. 22

Representative Haggerty offered the following amendment to **CSSB 909**:

Amend **CSSB 909** by adding the following appropriately numbered SECTIONS:

SECTION _____. Section 508.146, Government Code, is amended by amending Subsection (d) and adding Subsections (g) and (h) to read as follows:

(d) The Texas Correctional Office on Offenders with Medical or Mental Impairments and the ~~[Texas]~~ Department of Aging and Disability ~~[Human]~~ Services shall jointly request proposals from public or private vendors to provide under contract services for inmates released on medically recommended intensive supervision. A request for proposals under this subsection may require that the services be provided in a medical care facility located in an urban area. ~~[For the purposes of this subsection, "urban area" means the area in this state within a metropolitan statistical area, according to the standards of the United States Bureau of the Census.]~~

(g) The Texas Correctional Office on Offenders with Medical or Mental Impairments and the Department of Aging and Disability Services may jointly:

(1) with a real estate investment trust, enter into a lease agreement 20 or fewer years in length to finance, design, and build in a county contiguous to an urban area a medical facility to house inmates released on medically recommended intensive supervision under this section; and

(2) contract with a private vendor to provide treatment services at a facility described by Subdivision (1).

(h) In this section, "urban area" means the area in this state within a metropolitan statistical area, according to the standards of the United States Bureau of the Census.

(i) for purposes of this section, the Texas Correctional Office on Offenders with Medical and Mental Impairments shall be construed to be providing technical assistance to ensure that the State of Texas receive credit for Medicare funding.

Amendment No. 22 was adopted.

Amendment No. 23

Representative Hughes offered the following amendment to **CSSB 909**:

Amend **CSSB 909** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Not later than October 31, 2007, the Texas Department of Criminal Justice shall transfer to the City of Winnsboro, for consideration to which the parties mutually agree, the real property described by Subsection (d) of this section.

(b) Consideration for the transfer authorized by Subsection (a) of this section may be in the form of an agreement between the parties that requires the City of Winnsboro to use the property for a purpose that benefits the public interest of the state. If the consideration for the transfer is in the form of an agreement described by this subsection:

(1) the City of Winnsboro may use the property transferred under this Act only for a purpose that benefits the public interest of the state; and

(2) ownership of the property automatically reverts to the Texas Department of Criminal Justice if the City of Winnsboro no longer uses the property for a purpose that benefits the public interest of the state.

(c) The Texas Department of Criminal Justice shall transfer the property by an appropriate instrument of transfer. If the consideration for the transfer is in the form of an agreement described by Subsection (b) of this section, the instrument of transfer must include a provision that:

(1) requires the City of Winnsboro to use the property for a purpose that benefits the public interest of the state; and

(2) indicates that ownership of the property automatically reverts to the Texas Department of Criminal Justice if the City of Winnsboro no longer uses the property for a purpose that benefits the public interest of the state.

(d) The real property to which Subsection (a) of this section refers consists of two tracts of land described as follows:

(1) Tract 1 consists of 21.423 acres out of the Gray B. King Survey located in Wood County and further described as follows:

All that certain tract or parcel of land situated in the County of Wood, State of Texas, being in the Gray B. King Survey, Abstract No. 3, and being a portion of that 2.226 acre Tract One and a portion of that 36.154 acre Tract Four, both conveyed from Wood County to Texas Department of Criminal Justice and recorded in Volume 1319, page 147, being a portion of that 2.1 acre tract conveyed from Wood County to Texas Department of Criminal Justice and recorded in Volume 1319, page 145, being a portion of that 21.3 acre tract conveyed from Wood County to Texas Department of Criminal Justice and

recorded in Volume 1319, page 152, being a portion of that 98 acre Tract One and a portion of that 47.815 acre Tract Two, both conveyed from Wood County to Texas Department of Criminal Justice and recorded in Volume 1319, page 140, and being a portion of that 6.360 acre tract conveyed from Wood County to Texas Department of Criminal Justice and recorded in Volume 1319, page 150, all of the Real Property Records of said county and bounded as follows:

Beginning at a $\frac{1}{2}$ " steel rod found in the curve of Wood County Road No. 4608 (now abandoned) and being the southeast corner of the above mentioned 21.3 acre tract, also being the southwest corner of a 27.90 acre tract conveyed to the City of Winnsboro and recorded in Volume 624, page 105 of the Deed Records of said county, same being in the north boundary line of a 99.273 acre tract conveyed to the City of Winnsboro and recorded in Volume 1490, page 357 of the Real Property Records of said county;

Thence South 89 deg. 05 min. 44 sec. West, with said abandoned county road, 847.63 feet to a $\frac{1}{2}$ " steel rod found at the southwest corner of the above mentioned 21.3 acre tract, and being the southeast corner of the above mentioned 98 acre Tract One;

Thence South 89 deg. 29 min. 55 sec. West, continuing with said abandoned county road, 829.80 feet to a steel spike found at the northeast corner of a 20.83 acre tract conveyed to Carl Welch et al and recorded in Volume 1154, page 680 of the Real Property Records of said county, same being the northwest corner of the 99.273 acre City of Winnsboro tract;

Thence South 89 deg. 21 min. 40 sec. West, continuing with said abandoned county road, with the north boundary line of the 20.83 acre tract (Vol. 1154, pg. 680), with the north boundary line of a 20.83 acre tract (Vol. 1154, pg. 684), and with the north boundary line of a 20.83 acre tract (Vol. 1154, pg. 676), for a distance of 702.75 feet to a $\frac{3}{8}$ " steel rod found at the southwest corner of the 98 acre Texas Department of Criminal Justice tract and being the southeast corner of the 47.815 acre Texas Department of Criminal Justice tract;

Thence South 89 deg. 26 min. 50 sec. West, continuing with said abandoned county road, 197.23 feet to a railroad spike found at the lower southwest corner of the 47.815 acre tract, and being the southeast corner of the above mentioned 6.360 acre tract, same being in the north boundary line of a 31.1 acre tract conveyed to Jerry David Jackson et al and recorded in Volume 704, page 637 of the Deed Records of said county;

Thence South 89 deg. 26 min. 16 sec. West, continuing with said abandoned county road, 0.29 feet to a typical steel rod set (typical steel rod is a $\frac{1}{2}$ " by 24" rebar with surveyor's cap marked "Noble") in the north boundary line of the 31.1 acre Jackson tract;

Thence North 0 deg. 36 min. 30 sec. West, 0.16 feet to a typical steel rod set in the south right-of-way line of relocated Wood County Road No. 4608;

Thence North 89 deg. 23 min. 30 sec. East, with the south right-of-way line of said relocated county road, 1200.00 feet to a typical steel rod set at the beginning of a curve to the left;

Thence in a northeasterly direction continuing with said county road right-of-way line and along said curve: Radius=1492.40 feet, Long Chord bears North 53 deg. 06 min. 08 sec. East, 1766.59 feet, through a Central Angle of 72 deg. 34 min. 27 sec., for an Arc Length of 1890.48 feet to a typical steel rod set in the east right-of-way line of F.M. Highway No. 3530;

Thence North 16 deg. 49 min. 03 sec. East, with said highway right-of-way line, 1434.14 feet to a typical steel rod set in the north boundary line of the 2.226 acre Texas Department of Criminal Justice tract and being in the south boundary line of a 1.974 acre tract conveyed from Tommy Ray Clay et ux to Wood County and recorded in Volume 1284, page 308 of the Real Property Records of said county;

Thence South 83 deg. 10 min. 02 sec. East, with the south boundary line of the 1.974 acre Wood County tract, 114.39 feet to a 1/2" steel rod found for an angle point;

Thence South 82 deg. 57 min. 53 sec. East, 200.38 feet to a 60 d nail found at the southeast corner of the 1.974 acre tract and being the northeast corner of the 2.226 acre Texas Department of Criminal Justice tract, same being in the centerline of Wood County Road No. 4608 (now abandoned), and being in the west boundary line of the 27.90 acre City of Winnsboro tract;

Thence South 18 deg. 42 min. 44 sec. West, with said abandoned county road, 255.06 feet to a 60 d nail found at the southeast corner of the said 2.226 acre tract, and being the northeast corner of the 36.154 acre Texas Department of Criminal Justice tract;

Thence South 18 deg. 38 min. 50 sec. West, continuing with said abandoned county road, 734.22 feet to a 1/2" steel pipe found at the southeast corner of the 2.1 acre Texas Department of Criminal Justice tract, and being a lower northeast corner of the 36.154 acre Texas Department of Criminal Justice tract;

Thence South 16 deg. 59 min. 43 sec. West, continuing with said abandoned county road, 638.94 feet to a 60 d nail found at the southeast corner of the 36.154 acre tract and being the lower northeast corner of the 21.3 acre Texas Department of Criminal Justice tract;

Thence South 17 deg. 21 min. 12 sec. West, continuing with said abandoned county road, 869.07 feet to the place of beginning and containing 21.423 acres of land.

(2) Tract 2 consists of 2.30 acres out of the Gray B. King Survey located in Wood County and further described as follows:

All that certain tract or parcel of land situated in the County of Wood, State of Texas, being in the Gray B. King Survey, Abstract No. 3, being a portion of that 43.815 acre tract conveyed from Wood County to Texas Department of Criminal Justice and recorded in Volume 1319, page 137, and being a portion of that 0.352 acre Tract Two conveyed from Wood County to Texas Department of Criminal Justice and recorded in Volume 1319, page 154, both of the Real Property Records of said county and bounded as follows:

Beginning at a $\frac{1}{2}$ " steel pipe found in the west side of Wood County Road No. 4608 (now abandoned), same being the southwest corner of a 4.32 acre tract conveyed to the City of Winnsboro and recorded in Volume 624, page 112 of the Deed Records of said county, same being the upper southeast corner of the above mentioned 43.815 acre tract;

Thence North 84 deg. 36 min. 17 sec. West, with the south boundary line of the 43.815 acre tract, 29.73 feet to a typical steel rod set (typical steel rod is a $\frac{1}{2}$ " by 24" rebar with surveyor's cap marked "Noble") in the east right-of-way line of F.M. Highway No. 3530;

Thence North 16 deg. 49 min. 03 sec. East, with said highway right-of-way line, 604.38 feet to a $\frac{1}{2}$ " steel rod found at the beginning of a curve to the right;

Thence in a northeasterly direction continuing with said highway right-of-way line and along said curve: Radius=894.93 feet, Long Chord bears North 38 deg. 09 min. 29 sec. East, 651.35 feet, through a Central Angle of 42 deg. 40 min. 52 sec., for an Arc Length of 666.66 feet to a $\frac{1}{2}$ " steel rod found at the end of said curve;

Thence North 59 deg. 29 min. 55 sec. East, continuing with said highway right-of-way line, 112.62 feet to a typical steel rod set in the west line of the above mentioned abandoned county road and being in the east boundary line of the said 0.352 acre tract, same being in the west boundary line of an 18 acre tract conveyed to J.L. Mullinax and recorded in Volume 169, page 23 of the Deed Records of said county, said corner lies South 17 deg. 12 min. 56 sec. West, 59.97 feet from the northeast corner of the 0.352 acre tract;

Thence South 17 deg. 12 min. 56 sec. West, with the west line of said abandoned county road, passing the southeast corner of the 0.352 acre tract, same being the northeast corner of the 43.815 acre tract, and continuing along same course for a total distance of 378.14 feet to a $\frac{1}{2}$ " steel rod found for a corner;

Thence South 72 deg. 54 min. 13 sec. West, continuing with said right-of-way line of said abandoned county road, 350.00 feet to a $\frac{5}{8}$ " steel rod found at the northwest corner of the 4.32 acre City of Winnsboro tract;

Thence South 16 deg. 06 min. 32 sec. West, continuing along said right-of-way line of said abandoned county road, 714.62 feet to the place of beginning and containing 2.30 acres of land.

NOTE: Bearings shown hereon are "true bearings" as determined by solar observation.

Amendment No. 23 was adopted.

Amendment No. 24

Representative Coleman offered the following amendment to **CSSB 909**:

Amend **CSSB 909** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 115 to read as follows:

CHAPTER 115. CENTER FOR CORRECTIONAL PUBLIC HEALTH AND
HEALTH PROMOTION

Sec. 115.001. DEFINITION. In this chapter, "center" means the Center for Correctional Public Health and Health Promotion.

Sec. 115.002. SUNSET PROVISION. The Center for Correctional Public Health and Health Promotion is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the center is abolished and this chapter expires September 1, 2019.

Sec. 115.003. COMPOSITION OF GOVERNING BOARD. (a) The governing board of the center is composed of:

(1) the administrative head of the following agencies or that person's designee:

(A) the Department of State Health Services; and

(B) the Texas Department of Criminal Justice; and

(2) the following members appointed by the Texas Department of Criminal Justice:

(A) a representative of a county correctional department;

(B) a correctional health care worker;

(C) a representative of an organization that represents inmates; and

(D) a representative from the University of Texas Health Science

Center at Houston.

(b) Members of the governing board of the center appointed by the Texas Department of Criminal Justice serve staggered two-year terms, with the terms of two members expiring on February 1 of each year.

Sec. 115.004. CENTER FOR CORRECTIONAL PUBLIC HEALTH AND HEALTH PROMOTION. The Center for Correctional Public Health and Health Promotion shall be based at the University of Texas Health Science Center at Houston.

Sec. 115.005. POWERS AND DUTIES. (a) The center shall focus its efforts at preventing and reducing communicable diseases in inmate populations at correctional facilities and in those populations that are most likely to come in contact with inmates in a correctional environment.

(b) The center shall emphasize preventive programs that emphasize risk situations and risk behaviors.

(c) In developing and implementing programs under this chapter, the center:

(1) shall work with state and local correctional health agencies, including providers of correctional health care and the public health section of the Texas Department of Criminal Justice health services division; and

(2) may work with the American Correctional Association, the American Correctional Health Services Association, the Centers for Disease Control and Prevention, and organizations representing inmates.

(d) The center shall:

(1) develop and implement preventive education and risk reduction programs;

(2) perform behavioral interventions;

(3) perform health screenings and provide early intervention or care;

- (4) provide immunizations where available;
- (5) assess the cost-effectiveness of interventions and demonstration projects;
- (6) assess the impact of correctional programs on community health;
- (7) provide graduate and continuing education in correctional public health and infectious diseases;
- (8) evaluate demonstration projects in correctional institutions and disseminate the results; and
- (9) carry out joint research projects with correctional administrations.

(e) The center shall carry out research and training, with specific funded fellowship positions being available for correctional staff to spend a semester or longer or to undertake graduate education in the area within the center.

(f) Not later than September 1 of each year, the center shall file a report with the Texas Department of Criminal Justice, the legislature, and the governor, containing the center's policy recommendations for preventing and reducing communicable diseases in inmate populations at correctional facilities and in those populations that are most likely to come in contact with inmates in a correctional environment.

Sec. 115.006. EMPLOYEES OF CENTER. The center shall employ full-time and part-time faculty members of the University of Texas Health Science Center at Houston. The faculty members must have research interests in issues relating to public health and disease prevention in correctional institutions, including:

- (1) HIV, sexually transmitted diseases, hepatitis B and C, and tuberculosis;
- (2) substance abuse;
- (3) health promotion and health education;
- (4) program evaluation;
- (5) health policy;
- (6) criminology and criminal justice;
- (7) correctional health care and treatment; or
- (8) other relevant areas.

SECTION _____. Not later than December 1, 2007, the Texas Department of Criminal Justice shall appoint members to the governing board of the Center for Correctional Public Health and Health Promotion as required by Section 115.003, Health and Safety Code, as added by this Act. In making the initial appointments to the governing board, the Texas Department of Criminal Justice shall designate two members for terms expiring February 1, 2008, and two members for terms expiring February 1, 2009.

Amendment No. 24 was adopted.

CSSB 909, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Bohac, Harper-Brown, Laubenberg, Phillips, and Taylor recorded voting no.)

REASON FOR VOTE

While there are provisions of this sunset bill I agree with, the provisions of allowing for the early release of state jail confinees and the early release of offenders from probation are provisions that threaten our public safety and are unacceptable to me and, I believe, my constituents whom I represent. We must be tougher on crime, not weaker.

Bohac

POSTPONED BUSINESS

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

CSSB 11 ON SECOND READING (Corte - House Sponsor)

CSSB 11, A bill to be entitled An Act relating to homeland security; providing penalties.

CSSB 11 was read second time on May 18, amendments were offered and disposed of, **CSSB 11** was postponed until 10 a.m. today, and was again postponed until this time. Amendment No. 3 was pending at the time of postponement.

Amendment No. 3 was adopted.

Amendment No. 4

Representative McCall offered the following amendment to **CSSB 11**:

Amend **CSSB 11** (House committee printing) as follows:

(1) In the recital to SECTION 1.01 of the bill (page 1, line 7), strike "through (14)" and substitute "through (15)".

(2) In SECTION 1.01 of the bill, immediately following proposed Subdivision (14), Section 418.004, Government Code (page 1, between lines 23 and 24), insert the following:

(15) "Public facility" has the meaning assigned by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.).

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

SECTION 1. ____ . Section 418.020, Government Code, is amended to read as follows:

Sec. 418.020. TEMPORARY HOUSING AND EMERGENCY SHELTER. (a) The governor may enter into purchase, lease, or other arrangements with an agency of the United States for temporary housing units to be occupied by disaster victims and may make units available to any political subdivision.

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

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

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

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

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

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

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

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

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

Amendment No. 4 was adopted.

Amendment No. 5

Representative Hughes offered the following amendment to **CSSB 11**:

Amend **CSSB 11** (house committee report) by striking SECTION 4.02 in Article 4 of the bill and substituting the following:

SECTION 4.02. Section 228.058(d), Transportation Code, is amended to read as follows:

(d) Evidence obtained from technology approved by the department under Subsection (a) may not be used in the prosecution of an offense other than under Section 228.054 or 228.055 of this code, Section 20.03 or 20.04, Penal Code, or in the prosecution of a capital offense.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Flynn offered the following amendment to **CSSB 11**:

Amend **CSSB 11** as follows:

On page 28, between lines 7-8, insert a new subsection (f) to read as follows:

(f) The dealer may charge a reasonable fee not to exceed \$20 for costs associated with complying with this section.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Corte offered the following amendment to **CSSB 11**:

Amend **CSSB 11** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 42, Penal Code, is amended by adding Section 42.063 to read as follows:

Sec. 42.063. UNAUTHORIZED USE OF EMERGENCY COMMUNICATIONS DEVICE. (a) In this section:

(1) "Emergency" means a condition or circumstance in which an individual is in imminent danger of serious bodily injury or in which property is in imminent danger of damage or destruction.

(2) "Emergency communications device" means any device that is:

(A) owned by a governmental entity and routinely used by first responders to communicate with each other and with employers of first responders; or

(B) capable of transmitting over a radio frequency that is routinely used by first responders to transmit or receive communications.

(3) "First responder" has the meaning assigned by Section 421.095, Government Code.

(b) A person commits an offense if the person, without authorization, intentionally, knowingly, or recklessly:

(1) uses an emergency communications device;

(2) transmits a communication by using an emergency communications device; or

(3) transmits over a radio frequency routinely used by first responders to transmit or receive communications through emergency communications devices.

(c) Except as provided by Subsection (d), an offense under this section is a Class A misdemeanor.

(d) An offense under this section is a felony of the third degree if, during the commission of the offense, the actor:

(1) interferes with the ability of a first responder to respond to an emergency; or

(2) diverts a first responder from a location with the intent to facilitate the commission of another criminal offense by any person.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

Amendment No. 7 was adopted.

Amendment No. 8

Representative Herrero offered the following amendment to **CSSB 11**:

Amend **CSSB 11** (house committee printing) by adding the following appropriately numbered SECTIONS to Article 1 of the bill and renumbering existing SECTIONS of Article 1 appropriately:

SECTION 1.____. Subchapter A, Chapter 418, Government Code, is amended by adding Section 418.005 to read as follows:

Sec. 418.005. EMERGENCY MANAGEMENT TRAINING. (a) This section applies only to:

(1) an elected public officer; and

(2) an appointed public officer:

(A) whose position description, job duties, or assignment includes emergency management responsibilities; or

(B) who plays a role in emergency preparedness, response, or recovery.

(b) Each person described by Subsection (a) shall complete a course of training provided or approved by the division of not less than three hours regarding the responsibilities of state and local governments under this chapter not later than the 180th day after the date the person:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as an elected or appointed public officer; or

(2) otherwise assumes responsibilities as an elected or appointed public officer, if the person is not required to take an oath of office to assume the person's duties.

(c) The division shall develop and provide a training course related to the emergency management responsibilities of state-level officers and a training course related to the emergency management responsibilities of officers of political subdivisions. The division shall ensure that the training courses satisfy the requirements of Subsection (b).

(d) The division may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The division shall ensure that at least one course of training approved or provided by the division is available on videotape or a functionally similar and widely available medium at no cost.

(e) The division or other entity providing the training shall provide a certificate of course completion to public officers who complete the training required by this section. A public officer who completes the training required by this section shall maintain and make available for public inspection the record of the public officer's completion of the training.

(f) The failure of one or more public officers of the state or a political subdivision to complete the training required by this section does not affect the validity of an action taken by the state or the political subdivision.

(g) The hours spent in a training course required by Subsection (b) may be applied toward the continuing education requirements for county commissioners under Section 81.0025, Local Government Code.

SECTION 1, _____. Not later than January 1, 2009, each public officer who has taken the oath of office for a state or local government office before January 1, 2008, and who is required to complete a course of training under Section 418.005, Government Code, as added by this Act, must complete the training.

Amendment No. 8 was adopted.

Amendment No. 9

Representative Burnam offered the following amendment to **CSSB 11**:

Amend **CSSB 11** as follows:

(1) On page 16, line 12, strike "; or (3) an emergency operations plan".

Amendment No. 9 was adopted.

Amendment No. 10

Representative Isett offered the following amendment to **CSSB 11**:

Amend **CSSB 11** by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 418.108, Government Code, is amended to read as follows:

Sec. 418.108. DECLARATION OF LOCAL DISASTER. (a) Except as provided by Subsection (e), the presiding officer of the governing body of a political subdivision may declare a local state of disaster.

(b) A declaration of local disaster may not be continued or renewed for a period of more than seven days except with the consent of the governing body of the political subdivision or the joint board as provided by Subsection (e), as applicable.

(c) An order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary, the county clerk, or the joint board's official records, as applicable.

(d) A declaration of local disaster activates the recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration. The preparedness and response aspects of the plans are activated as provided in the plans and take effect immediately after the local state of disaster is declared.

(e) The chief administrative officer of a joint board has exclusive authority to declare that a local state of disaster exists within the boundaries of an airport operated or controlled by the joint board, regardless of whether the airport is located in or outside the boundaries of a political subdivision.

(f) The county judge or the mayor of a municipality may order the evacuation of all or part of the population from a stricken or threatened area under the jurisdiction and authority of the county judge or mayor if the county judge or mayor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(g) The county judge or the mayor of a municipality may control ingress to and egress from a disaster area under the jurisdiction and authority of the county judge or mayor and control the movement of persons and the occupancy of premises in that area.

(h) For purposes of Subsections (f) and (g):

(1) the jurisdiction and authority of the county judge includes the incorporated and unincorporated areas of the county; and

(2) to the extent of a conflict between decisions of the county judge and the mayor, the decision of the county judge prevails.

(i) A declaration under this section may include any restriction authorized by Section 352.051, Local Government Code, but may not exceed the scope of such a restriction.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Pickett offered the following amendment to **CSSB 11**:

Amend **CSSB 11** by adding the following appropriately numbered article to the bill and renumbering subsequent articles and sections as appropriate:

ARTICLE ____ INFORMATION PROVIDED BY CRITICAL
INFRASTRUCTURE ENTITIES

SECTION ____ .01. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.024 to read as follows:

Sec. 21.024. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES CONSIDERED TO BE CRITICAL INFRASTRUCTURE. (a) A utility, a common carrier or a transporter of oil, gas or the products of oil or gas is considered to be within the definition of critical infrastructure under Government Code Section 421.001. Notwithstanding any other law, an entity which is considered critical infrastructure and which is authorized by law to take private property through the use of eminent domain is required to produce information as provided by this section if the information is requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding, but only if the information is related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court in the county in which the entity has its principal place of business that has jurisdiction over condemnation proceedings under this chapter.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines the refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

(g) If an entity that received a request in accordance with this section does not produce the requested information on or before the 30th day after the request is made, the attorney general may file an action in a court described by Subsection (e) to enforce this section on the request of the person who made the request for the information. If the court determines that the failure to produce the information is a violation of this section, the court may award the attorney general's reasonable expenses incurred to compel the production of the information.

(h) If the attorney general files an action under subsection (g), the person who requested that the attorney general file the action may not file a private action to enforce this section with respect to the same request for information.

(i) Section 552.0037, Government Code, is repealed as to those entities described in Subsection (a).

Amendment No. 11 was adopted.

Amendment No. 12

Representative T. King offered the following amendment to **CSSB 11**:

Amend **CSSB 11** by adding a new appropriately numbered SECTION to read as follows:

SECTION _____. Section 431.005, Government Code is amended to read as follows:

Sec. 431.005. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND EMPLOYEES. (a) Except as provided by Subsection (b), a person who is an officer or employee of the state, a municipality, a county, or another political

subdivision of the state and who is a member of the state military forces, ~~or~~ a reserve component of the armed forces or a member of a state or federally authorized Urban Search and Rescue Team is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a federal fiscal year. During a leave of absence the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time.

(b) A member of the legislature is entitled to pay for all days that the member is absent from a session of the legislature and engaged in training and duty as provided by Subsection (a).

(c) A state employee who is a member of the state military Forces, ~~or~~ a reserve component of the armed forces or a member of state or federally authorized Urban Search and Rescue Team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

Amendment No. 12 was adopted.

Amendment No. 13

On behalf of Representative Guillen, Representative Corte offered the following amendment to **CSSB 11**:

Amend **CSSB 11** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . ENHANCED DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE

SECTION ____ .01. Subchapter B, Chapter 521, Transportation Code, is amended by adding Section 521.032 to read as follows:

Sec. 521.032. ENHANCED DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE. (a) The department may issue an enhanced driver's license or personal identification certificate for the purposes of crossing the border between this state and Mexico to an applicant who provides the department with proof of United States citizenship, identity, and state residency. If the department issues an enhanced driver's license or personal identification certificate, the department shall continue to issue a standard driver's license and personal identification certificate and offer each applicant the option of receiving the standard or enhanced driver's license or personal identification certificate.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or personal identification certificate. An applicant for an enhanced driver's license or personal identification certificate must submit a biometric identifier as designated by the department, which, notwithstanding any other law, may be used only to verify the identity of the applicant for purposes relating to implementation of the border crossing initiative established by this section. An applicant must sign a declaration acknowledging the applicant's understanding of the one-to-many biometric match.

(c) The enhanced driver's license or personal identification certificate must include reasonable security measures to protect the privacy of the license or certificate holders, including reasonable safeguards to protect against the unauthorized disclosure of information about the holders. If the enhanced driver's license or personal identification certificate includes a radio frequency identification chip or similar technology, the department shall ensure that the technology is encrypted or otherwise secure from unauthorized information access.

(d) The requirements of this section are in addition to any other requirements imposed on applicants for a driver's license or personal identification certificate. The department shall adopt rules necessary to implement this section. The department shall periodically review technological innovations related to the security of driver's licenses and personal identification certificates and amend the rules as appropriate, consistent with this section, to protect the privacy of driver's license and personal identification certificate holders.

(e) The department may set a fee for issuance of an enhanced driver's license or personal identification certificate in a reasonable amount necessary to implement and administer this section.

(f) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between this state and Mexico. The department may enter into an agreement with Mexico, to the extent permitted by federal law, to implement a border crossing initiative authorized by this section. The department shall implement a statewide education campaign to educate residents of this state about the border crossing initiative. The campaign must include information on:

(1) the forms of travel for which the existing and enhanced driver's license and personal identification certificate can be used; and

(2) relevant dates for implementation of laws that affect identification requirements at the border with Mexico.

(g) A person may not sell or otherwise disclose biometric information accessed from an enhanced driver's license or any information from an enhanced driver's license radio frequency identification chip or similar technology to another person or an affiliate of the person. This subsection does not apply to a financial institution described by Section 521.126(e).

Amendment No. 13 was adopted.

Amendment No. 14

Representative Martinez offered the following amendment to **CSSB 11**:

Amend **CSSB 11** by adding the following appropriately numbered SECTIONS to ARTICLE 4 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION 4. _____. Section 228.054(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (e), the operator of a vehicle, other than an authorized emergency vehicle, as defined by Section 541.201, that is driven or towed through a toll collection facility shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as an emergency vehicle.

SECTION 4. _____. Section 284.070, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) An authorized emergency vehicle, as defined by Section 541.201, is exempt from payment of a toll imposed under this chapter regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as an emergency vehicle.

SECTION 4. _____. Section 366.178(a), Transportation Code, is amended to read as follows:

(a) A motor vehicle other than an authorized emergency vehicle, as defined by Section 541.201, [~~a police or emergency vehicle~~] that passes through a toll collection facility, whether driven or towed, shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as a police or emergency vehicle.

SECTION 4. _____. Section 370.177(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (a-1), the operator of a vehicle, other than an authorized emergency vehicle as defined by Section 541.201, that is driven or towed through a toll collection facility of a turnpike project shall pay the proper toll. The operator of a vehicle who drives or tows a vehicle through a toll collection facility and does not pay the proper toll commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$250. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as an emergency vehicle.

SECTION 4. _____. Section 541.201, Transportation Code, is amended by adding Subdivision (13-a) to read as follows:

(13-a) "Police vehicle" means a vehicle of a governmental entity primarily used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, for law enforcement purposes.

Amendment No. 14 was adopted.

Amendment No. 15

Representatives Chavez and Driver offered the following amendment to **CSSB 11**:

Amend **CSSB 11** as follows:

(1) Add an appropriately numbered Article to the bill to read as follows:

ARTICLE _____. PUBLIC SAFETY AGENCIES

SECTION _____. Sections 411.003(b), (c), and (d), Government Code are amended to read as follows:

(b) The commission is composed of five [~~three~~] citizens of this state appointed by the governor with the advice and consent of the senate. Members must be selected because of their peculiar qualifications for the position [-] and must reflect the diverse geographic regions and population groups of this state. Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin. In making an appointment the governor shall consider, among other things, the person's knowledge of laws, experience in the enforcement of law, honesty, integrity, education, training, and executive ability.

(c) Members serve staggered six-year terms with the terms [~~term~~] of either one or two members [~~member~~] expiring January 1 of each even-numbered year.

(d) The governor shall designate one member of the commission as chairman of the commission to serve in that capacity at the pleasure of the governor. The commission shall meet at the times and places specified by commission rule or at the call of the chairman [~~or any two members~~]. The chairman shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each member at least seven days before the meeting.

SECTION _____. Promptly after this article takes effect, the governor shall appoint two additional members to the Public Safety Commission. Of those members, the governor shall designate one to serve a term expiring January 1, 2010, and one to serve a term expiring January 1, 2012.

(2) Renumber the articles and sections of the bill appropriately.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Phillips offered the following amendment to **CSSB 11**:

Amend **CSSB 11** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. LICENSE PLATES FOR THE MILITARY

SECTION _____. Subchapter D, Chapter 504, Transportation Code, is amended by adding Section 504.3011 to read as follows:

Sec. 504.3011. DESIGN OF CERTAIN LICENSE PLATES FOR THE MILITARY. (a) License plates issued under Section 504.303 must at a minimum bear a color depiction of the emblem of the appropriate branch of the United States armed forces.

(b) License plates issued under Section 504.308(a) or 504.315(e), (f), or (g) must at a minimum bear a color depiction of the appropriate medal.

(c) The department shall design license plates to which this section applies in consultation with veterans organizations.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Branch offered the following amendment to **CSSB 11**:

Amend **CSSB 11** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 51.212, Education Code, is amended to read as follows:

Sec. 51.212. PEACE [SECURITY] OFFICERS AT PRIVATE INSTITUTIONS. (a) The governing boards of private institutions of higher education, including private junior colleges, are authorized to employ and commission peace officers [campus security personnel] for the purpose of enforcing:

(1) state law [the law of this state] on the campuses of private institutions of higher education; and

(2) state and local law, including applicable municipal ordinances, at other locations, as permitted by Subsection (b) or Section 51.2125.

(b) Any officer commissioned under the provisions of this section is vested with all the powers, privileges, and immunities of peace officers if the officer:

(1) is [while] on the property under the control and jurisdiction of the respective private institution of higher education or is otherwise performing [in the performance of his assigned] duties assigned to the officer by the institution, regardless of whether the officer is on property under the control and jurisdiction of the institution; or

(2) to the extent authorized by Section 51.2125, is:

(A) requested by another law enforcement agency to provide assistance in enforcing state or local law, including a municipal ordinance, and is acting in response to that request; or

(B) otherwise assisting another law enforcement agency in enforcing a law described by Paragraph (A).

(c) Any officer assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor, with two or more good and sufficient sureties, conditioned that the officer [he] will fairly, impartially, and faithfully perform the duties as may be required of the officer [him] by law. The bond may be sued on from time to time in the name of the person injured until the whole amount is recovered.

(d) [(b)] The governing boards of private institutions of higher education are authorized to hire and pay on a regular basis peace [law enforcement] officers commissioned by an incorporated city. The officers shall be under the supervision of the hiring institution, but shall be subject to dismissal and disciplinary action

by the city. An incorporated city is authorized to contract with a private institution of higher education for the use and employment of its commissioned officers in any manner agreed to, provided that there is no expense incurred by the city.

(e) ~~(e)~~ In this section, "private institution of higher education" means a private or independent institution of higher education as defined ~~[has the meaning assigned]~~ by Section 61.003 ~~[61.003(15) of this code]~~.

SECTION _____. Subchapter E, Chapter 51, Education Code, is amended by adding Sections 51.2125 and 51.2126 to read as follows:

Sec. 51.2125. PRIVATE INSTITUTIONS: AUTHORITY TO ENTER INTO MUTUAL ASSISTANCE AGREEMENT. (a) This section applies only to a private institution of higher education, as defined by Section 61.003, with a fall head count enrollment of more than 10,000 students.

(b) If the institution has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a municipality with a population of more than one million, in addition to exercising the authority provided under Section 51.212(d), the governing board of a private institution of higher education to which this section applies and the governing body of each municipality, regardless of the municipality's population, that is contiguous to, or the boundaries of which contain any part of, property under the control and jurisdiction of the private institution of higher education may enter into a written mutual assistance agreement in which peace officers commissioned by the institution or the applicable municipality serve the public interest by assisting, without any form of additional compensation or other financial benefit, the peace officers of the other party to the agreement in enforcing state or local law, including applicable municipal ordinances. The agreement must be reviewed at least annually by the institution and the municipality and may be modified at that time by a written agreement signed by each party. The agreement may be terminated at any time by a party to the agreement on the provision of reasonable notice to the other party to the agreement.

(c) A mutual assistance agreement authorized by this section may designate the geographic area in which the campus peace officers are authorized to provide assistance to the peace officers of the municipality.

(d) This section does not affect a municipality's duty to provide law enforcement services to any location within the boundaries of the municipality.

(e) A peace officer providing assistance under a mutual assistance agreement authorized by this section may make arrests and exercise all other authority given to peace officers under other state law. The municipal law enforcement agency has exclusive authority to supervise any campus peace officer operating under the agreement to assist the peace officers of the municipality. A municipal peace officer operating under the agreement to assist the campus peace officers remains under the supervision of the municipal law enforcement agency.

(f) In the same manner and to the same extent as a municipality is liable for an act or omission of a peace officer employed by the municipality, a private institution of higher education is liable for an act or omission of a campus peace

officer operating under a mutual assistance agreement authorized by this section at a location other than property under the control and jurisdiction of the institution.

(g) This section does not limit the authority of a campus peace officer to make a warrantless arrest outside the officer's jurisdiction as described by Article 14.03(d), Code of Criminal Procedure.

Sec. 51.2126. APPEAL BY CAMPUS PEACE OFFICER OF DISCIPLINARY ACTION OR PROMOTIONAL BYPASS RELATED TO PROVISION OF ASSISTANCE UNDER MUTUAL ASSISTANCE AGREEMENT. (a) A campus peace officer acting under a mutual assistance agreement authorized by Section 51.2125 who is demoted, suspended, or terminated by the applicable private institution of higher education or who experiences a promotional bypass by the institution may elect to appeal the institution's action to an independent third party hearing examiner under this section.

(b) To elect to appeal to an independent third party hearing examiner under this section, the campus peace officer must submit to the head of the institution's law enforcement agency not later than the 30th day after the date of the action being appealed a written request stating the officer's decision to appeal to such a hearing examiner.

(c) The hearing examiner's decision is final and binding on all parties. If a campus peace officer elects to appeal the institution's action to an independent third party hearing examiner under this section, the officer or institution may appeal the examiner's decision to a district court only as provided by Subsection (j).

(d) If a campus peace officer elects to appeal to a hearing examiner, the officer and the head of the institution's law enforcement agency or their designees shall attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner before the 10th day after the date the appeal is filed, the parties immediately shall request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The officer and the agency head or their designees may agree on one of the seven neutral arbitrators on the list. If the parties do not agree before the fifth business day after the date the parties receive the list, the parties or their designees shall alternate striking a name from the list, and the single name remaining after all other names have been struck is selected as the hearing examiner. The parties or their designees shall agree on a date for the hearing.

(e) The appeal hearing must begin as soon as an appearance by the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing before the 45th day after the date of selection, the campus peace officer may, within 48 hours after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d).

(f) In a hearing conducted under this section, the hearing examiner has the same duties and powers that a civil service commission has in conducting a hearing or hearing an appeal under Chapter 143, Local Government Code, including the right to issue subpoenas. The hearing examiner may:

(1) order that the campus peace officer be reinstated to the same position or status in which the officer was employed immediately before the demotion, suspension, or termination or, in the case of a promotional bypass, to the position or status with respect to which the officer experienced the bypass; and

(2) award the officer lost wages and any other compensation lost as a result of the disciplinary action or promotional bypass, as applicable.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall issue a decision on the appeal not later than the 10th day after the date the hearing is completed.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to issue a decision on the appeal not later than the 30th day after the later of the date the hearing is completed or the briefs are filed. The hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action or promotional bypass, or the hearing examiner's final decision.

(i) The hearing examiner's fees and expenses shall be paid in equal amounts by the parties. The costs of a witness shall be paid by the party who calls the witness.

(j) A district court may hear an appeal of a hearing examiner's decision only on the grounds that the hearing examiner was without jurisdiction or exceeded the examiner's jurisdiction or that the decision was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the district court having jurisdiction in the municipality in which the institution is located.

Amendment No. 17 was adopted.

CSSB 11, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

PROVIDING FOR A LOCAL, CONSENT, AND RESOLUTIONS CALENDAR

Representative C. Howard moved to suspend all necessary rules to set a local, consent, and resolutions calendar for 9 a.m. Wednesday, May 23.

The motion prevailed.

POSTPONED BUSINESS

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

SB 23 ON SECOND READING
(Smithee - House Sponsor)

SB 23, A bill to be entitled An Act relating to promoting the purchase and availability of health coverage.

SB 23 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative Smithee offered the following amendment to **SB 23**:

Amend **SB 23** (House Committee Printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . TEXAS CHOICE PROVIDER PROGRAM

SECTION ____ .01. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1465 to read as follows:

CHAPTER 1465. TEXAS CHOICE PROVIDER PROGRAM

Sec. 1465.001. DEFINITIONS. In this chapter:

(1) "Balance bill" means the practice by which a health care provider that does not have a contract with a health benefit plan issuer charges an individual covered under a health benefit plan the difference between the provider's fee for a health care service the individual received and the amount that the health benefit plan reimbursed the provider for the health care service, excluding deductibles, copayments, coinsurance, and annual or maximum payment limits under the health benefit plan.

(2) "Choice health care provider" means a health care provider that is in the registry maintained by the department under Section 1465.003.

(3) "Health benefit plan" means an individual, group, blanket, or franchise insurance policy, a certificate issued under a group policy, a group hospital service contract, a group subscriber contract issued by a health insurer, or evidence of coverage issued by a health maintenance organization that provides benefits for health care services. The term does not include:

(A) accident-only or disability income insurance coverage or a combination of accident-only and disability income insurance coverage;

(B) credit-only insurance coverage;

(C) disability insurance coverage;

(D) coverage only for a specified disease or illness;

(E) Medicare services under a federal contract;

(F) Medicare supplement and Medicare Select policies regulated in accordance with federal law;

(G) long-term care coverage or benefits, nursing home care coverage or benefits, home health care coverage or benefits, community-based care coverage or benefits, or any combination of those coverages or benefits;

(H) coverage that provides limited-scope dental or vision benefits;

(I) coverage provided by a single service health maintenance organization;

(J) coverage issued as a supplement to liability insurance;

(K) workers' compensation insurance coverage or similar insurance coverage;

(L) automobile medical payment insurance coverage;

(M) a jointly managed trust authorized under 29 U.S.C. Section 141 et seq. that contains a plan of benefits for employees that is negotiated in a collective bargaining agreement governing wages, hours, and working conditions of the employees that is authorized under 29 U.S.C. Section 157;

(N) hospital indemnity or other fixed indemnity insurance coverage;

(O) reinsurance contracts issued on a stop-loss, quota-share, or similar basis;

(P) liability insurance coverage, including general liability insurance and automobile liability insurance coverage; or

(Q) coverage that provides other limited benefits specified by federal regulations.

(4) "Health benefit plan issuer" means a health maintenance organization operating under Chapter 843, a preferred provider organization operating under Chapter 1301, an approved nonprofit health corporation that holds a certificate of authority under Chapter 844, and any other entity that issues a health benefit plan, including:

(A) an insurance company;

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

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

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

(5) "Health care provider" means a person, corporation, facility, or institution that is:

(A) licensed by a state to provide or is otherwise lawfully providing health care services; and

(B) eligible for independent reimbursement for those health care services.

Sec. 1465.002. CONSTRUCTION WITH OTHER LAW. Notwithstanding any other law, to the extent of any conflict between a provision in this chapter and another law, the provision in this chapter prevails.

Sec. 1465.003. CREATION OF REGISTRY, LOGO, AND INFORMATION SYSTEM. The department shall:

(1) establish and maintain a registry of health care providers that have agreed to provide health care services in accordance with this chapter; and

(2) develop:

(A) a logo that health care providers that are in the registry established and maintained under Subdivision (1) may use as a designation of the provider's status as a choice health care provider; and

(B) an information system, which may include an education campaign, to inform health care service consumers of the existence of the registry and the conditions that are placed on health care providers under this chapter as a condition of being choice health care providers.

Sec. 1465.004. INCLUSION IN REGISTRY; APPLICATION AND RENEWAL; EFFECT OF INCLUSION IN REGISTRY. (a) The department by rule shall establish an application form and registration process under which a health care provider is included in the registry established and maintained under Section 1465.003.

(b) A health care provider is eligible for inclusion in the registry on application to the department and payment of the application fee under Subsection (c). The provider may renew the registration by submitting a renewal application to the department and paying the renewal fee under Subsection (c).

(c) The department shall set the application fee and renewal fee in an amount not to exceed \$25.

(d) Inclusion of a health care provider in the registry does not constitute an endorsement of the provider by the department.

Sec. 1465.005. NOTICE OF STATUS AS CHOICE HEALTH CARE PROVIDER. (a) The department by rule shall develop a notice that a choice health care provider must provide to an individual covered by a health benefit plan before provision of nonemergency health care services. The notice must describe the Texas Choice Provider Program established under this chapter and inform an individual covered by a health benefit plan of the provider's status as a choice health care provider.

(b) The department by rule shall establish when and how a provider must provide the notice described in Subsection (a).

Sec. 1465.006. BENEFITS AND CONDITIONS OF INCLUSION IN REGISTRY. A choice health care provider who does not have a contract with a health benefit plan issuer:

(1) is entitled to prompt payment of a reasonable fee from a health benefit plan issuer for a health care service that is covered by the health benefit plan under which the patient is covered if:

(a) the service was provided in connection with a medical emergency;

(b) the service was provided in connection with a surgical procedure which was not prescheduled at least 48 hours before the beginning of the procedure;

(c) no network provider was reasonably available at the time and place the service was rendered, or

(d) the service was provided upon a referral by a network provider, and the referral was reasonably necessary for the health of the enrollee;

(2) may not balance bill a patient for a health care service that is covered by the health benefit plan under which the patient is covered; and

(3) may only use the logo developed by the department under Section 1465.003 if the choice health care provider has paid the annual fee under Section 1465.004.

Sec. 1465.007. CLAIM REQUIREMENTS; CALCULATION OF PENALTY. (a) A choice health care provider must submit a claim for health care services to the health benefit plan issuer in accordance with Subchapter J, Chapter 843, or Subchapters C and C-1, Chapter 1301, as applicable.

(b) In calculating any penalties payable to a choice health care provider by a health benefit plan issuer under Subchapter J, Chapter 843, or Subchapters C and C-1, Chapter 1301, the amount of a reasonable fee, as determined by the rules adopted by the commissioner under this chapter, shall be used in place of the contracted rate when there is not a contract in place between the choice health care provider and a health benefit plan issuer.

Sec. 1465.008. ARBITRATION OF DISPUTES. (a) The commissioner shall adopt rules that provide for the arbitration of disputes arising under this chapter that concern the payment or determination of the amount of a reasonable fee under this chapter.

(b) The department may require the payment of reasonable fees by choice health care providers and health benefit plan issuers for arbitration of disputes arising under this chapter. Fees imposed under this section may not exceed the actual cost of the arbitration, including administrative costs.

Sec. 1465.009. VIOLATION BY HEALTH CARE PROVIDER. (a) A violation of this chapter by a health care provider is grounds for disciplinary action and imposition of an administrative penalty by the appropriate regulatory agency that issued a license, certification, or registration to the health care provider.

(b) The regulatory agency shall:

(1) notify a health care provider of a finding by the regulatory agency that the health care provider is violating or has violated this chapter or a rule adopted under this chapter; and

(2) provide the health care provider with an opportunity to correct the violation in a timely manner.

(c) Complaints brought under this section do not require a determination of medical competency, and Section 154.058, Occupations Code, does not apply.

Sec. 1465.010. DATA COLLECTION; STATISTICAL AGENT. (a) The commissioner may collect data from health benefit plan issuers and other sources reasonably necessary to determine reasonable fee amounts under this chapter.

(b) The commissioner may designate or contract with a qualified organization to serve as the statistical agent for the commissioner to gather data relevant for regulatory purposes or as otherwise provided by this code.

Sec. 1465.011. RULES. The commissioner may adopt rules necessary to implement this chapter, including rules to determine what constitutes a reasonable fee for the purposes of Section 1465.006(1).

SECTION __.02. (a) The Texas Department of Insurance shall implement the registry described by Chapter 1465, Insurance Code, as added by this Act, not later than June 1, 2008.

(b) The reimbursement and fee conditions described by Section 1465.006, Insurance Code, as added by this Act, apply beginning on January 1, 2009.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Oliveira, Vo, T. Smith, Thompson, Eiland, and Taylor offered the following amendment to **SB 23**:

Amend **SB 23** (house committee printing) as follows:

(1) In SECTION 1.01 of the bill, between amended Section 524.051, Insurance Code, and amended Section 524.052, Insurance Code (page 2, between lines 23 and 24), insert the following:

Sec. 524.0511. INFORMATION ABOUT AVAILABILITY OF CERTAIN COVERAGE. The division shall include information in the program's materials about the availability under certain health benefit plans of coverage for tests for early detection of cardiovascular disease as provided by Chapter 1376.

(2) Insert the following appropriately numbered article and renumber existing articles accordingly:

ARTICLE ____ . AVAILABILITY OF AND EDUCATION REGARDING COVERAGE FOR HEALTH SCREENING TESTS

SECTION ____ .01. Subtitle E, Title 8, Insurance Code, is amended by adding Chapter 1376 to read as follows:

CHAPTER 1376. CERTAIN TESTS FOR EARLY DETECTION OF CARDIOVASCULAR DISEASE

Sec. 1376.001. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan that:

(1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including:

(A) an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage that is offered by:

(i) an insurance company;

(ii) a group hospital service corporation operating under

Chapter 842;

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

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

(v) a stipulated premium company operating under Chapter

884; or

(vi) a health maintenance organization operating under Chapter

843;

(B) to the extent permitted by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a health benefit plan that is offered by:

(i) a multiple employer welfare arrangement as defined by Section 3 of that Act (29 U.S.C. Section 1002); or

(ii) another analogous benefit arrangement;

(C) a small employer health benefit plan written under Chapter 1501; or

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

(2) is offered by an approved nonprofit health corporation operating under Chapter 844; or

(3) provides health and accident coverage through a risk pool created under Chapter 172, Local Government Code, notwithstanding Section 172.014, Local Government Code.

(b) Notwithstanding any provision in Chapter 1601 or any other law, this chapter applies to basic coverage under Chapter 1601.

Sec. 1376.002. EXCEPTION. This chapter does not apply to:

(1) a plan that provides coverage:

(A) only for a specified disease or other limited benefit;

(B) only for accidental death or dismemberment;

(C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;

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

(E) only for indemnity for hospital confinement;

(2) a workers' compensation insurance policy;

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

(4) a long-term care policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Section 1376.001.

Sec. 1376.003. MINIMUM COVERAGE REQUIRED. (a) A health benefit plan that provides coverage for screening medical procedures must provide the minimum coverage required by this section to each covered individual:

(1) who is:

(A) a male older than 45 years of age and younger than 76 years of age; or

(B) a female older than 55 years of age and younger than 76 years of age; and

(2) who:

(A) is diabetic; or

(B) has a risk of developing coronary heart disease, based on a score derived using the Framingham Heart Study coronary prediction algorithm, that is intermediate or higher.

(b) The minimum coverage required to be provided under this section is coverage of up to \$200 for one of the following noninvasive screening tests for atherosclerosis and abnormal artery structure and function every five years, performed by a laboratory that is certified by a national organization recognized by the commissioner by rule for the purposes of this section:

(1) computed tomography (CT) scanning measuring coronary artery calcification; or

(2) ultrasonography measuring carotid intima-media thickness and plaque.

Sec. 1376.004. NOTICE AND EDUCATION. An issuer of a health benefit plan to which this chapter applies shall:

(1) notify policy or contract holders and enrollees under the plan and potential policy or contract holders and enrollees under the plan of the availability of the coverage required by this chapter; and

(2) educate enrollees under the plan of the benefits of the screening medical procedures required under this chapter.

SECTION ____ .02. The change in law made by this article applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2008. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2008, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Coleman offered the following amendment to **SB 23**:

Amend **SB 23** by inserting the following new ARTICLE to the bill, appropriately numbered, and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ .LIFETIME BENEFITS FOR CERTAIN MEDICAL CONDITIONS

SECTION ____ .01. Subtitle E, Title 8, Insurance Code, is amended by adding Chapter 1377 to read as follows:

CHAPTER 1377. MAXIMUM LIFETIME BENEFITS FOR ACUTE OR CHRONIC MEDICAL CONDITIONS

Sec. 1377.001. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

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

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

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

(5) an exchange operating under Chapter 942;

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

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

(8) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) This chapter applies to group health coverage made available by a school district in accordance with Section 22.004, Education Code.

(c) Notwithstanding Section 172.014, Local Government Code, or any other law, this chapter applies to health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.

(d) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

- (1) a basic coverage plan under Chapter 1551;
- (2) a basic plan under Chapter 1575;
- (3) a primary care coverage plan under Chapter 1579; and
- (4) basic coverage under Chapter 1601.

(e) Notwithstanding any other law, a standard health benefit plan provided under Chapter 1507 must provide the coverage required by this chapter.

(f) Notwithstanding Section 1501.251 or any other law, this chapter applies to coverage under a small employer health benefit plan subject to Chapter 1501.

Sec. 1377.002. EXCEPTION. This chapter does not apply to:

- (1) a plan that provides coverage:
 - (A) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;
 - (B) as a supplement to a liability insurance policy;
 - (C) for credit insurance;
 - (D) only for dental or vision care;
 - (E) only for hospital expenses; or
 - (F) only for indemnity for hospital confinement;
- (2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);
- (3) a workers' compensation insurance policy;
- (4) medical payment insurance coverage provided under a motor vehicle insurance policy; or
- (5) a long-term care policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Section 1377.001.

Sec. 1377.003. MAXIMUM LIFETIME BENEFIT. A health benefit plan that limits the maximum lifetime benefit applicable to an acute or chronic medical condition of an individual covered under the plan to a specified dollar amount may not limit the benefit to an amount less than \$5 million.

Sec. 1377.004. RULES. The commissioner may adopt rules in accordance with Subchapter A, Chapter 36, as necessary to implement this article. The rules may specify the types of acute or chronic medical conditions to which the restriction of Section 1377.003 applies.

SECTION ____ .02. Section 1506.151, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Coverage provided by the pool is subject to Chapter 1377.

SECTION ____ .03. This article applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2008. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2008, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Villarreal offered the following amendment to **SB 23**:

Amend **SB 23** (house committee printing) as follows:

(1) In SECTION 1.01 of the bill, in proposed Subdivision (5), Subsection (a), Section 524.003, Insurance Code, between "state" and the semicolon (page 2, line 9), insert ", including the availability of benefits under Medicaid and the state child health plan".

(2) In SECTION 1.01 of the bill, in proposed Subdivision (6), Subsection (a), Section 524.003, Insurance Code, between "plans" and the period (page 2, line 14), insert ", as well as Medicaid and the state child health plan".

(3) In SECTION 1.01 of the bill, in proposed Section 524.051, Insurance Code, strike "ISSUERS." (page 2, line 20) and substitute "ISSUERS AND BENEFITS UNDER CERTAIN GOVERNMENT PROGRAMS. (a)".

(4) In SECTION 1.01 of the bill, in proposed Section 524.051, Insurance Code, following the last sentence (page 2, between lines 23 and 24), insert:

(b) The materials produced for the program must include information about eligibility for, and enrollment in, Medicaid and the state child health plan.

Amendment No. 4 was adopted.

Amendment No. 5

Representative T. Smith offered the following amendment to **SB 23**:

Amend **SB 23** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 1301, Insurance Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ANNUAL PREFERRED PROVIDER BENEFIT PLAN REPORT CARDS

Sec. 1301.301. DEFINITIONS. In this subchapter:

(1) "Direct losses incurred" means the sum of direct losses paid, plus an estimate of losses to be paid in the future, for all claims arising from the current reporting period and all prior reporting periods, minus the corresponding estimate made at the close of business for the preceding reporting period. The term does not include home office and other overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, utilization review costs, or claims processing costs.

(2) "Direct losses paid" means the sum of all payments made during the reporting period for claimants under a preferred provider benefit plan before reinsurance has been ceded or assumed. The term does not include home office and other overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, utilization review costs, or claims processing costs.

(3) "Direct premiums earned" means the amount of premium attributable to the coverage already provided in a given reporting period before reinsurance has been ceded or assumed.

(4) "Premium to direct patient care score" means direct losses incurred divided by direct premiums earned.

(5) "Network adequacy score" means the total number of claims paid as out-of-network by a preferred provider benefit plan divided by the total number of claims paid by the preferred provider benefit plan.

(6) "Claims paid score" means the total dollar amount paid by the preferred provider benefit plan as out-of-network divided by the total dollar amount of claims paid by the preferred provider benefit plan.

(7) "Allowables cap score" means the aggregate percentage margin between the amount submitted on claims by non-contracted physicians or providers and the preferred provider benefit plan's allowable amount or the usual and customary amounts the preferred provider benefit plan is willing to pay.

(8) "Expected profit score" means the percentage of the premium dollar that represents the actuarially set allowance for profit.

(9) "Justified complaint" means a complaint submitted to the department for which the department determines there exists:

(A) a violation of a policy provision, contract provision, rule, or statute; or

(B) a valid concern that a prudent layperson would regard as customary a practice or service that is below customary business practice.

Sec. 1301.302. REPORT CARD. The commissioner shall develop and issue an annual preferred provider benefit plan report card that publicizes the scores described by Section 1301.303. The report card must be in a format that permits direct comparison of preferred provider benefit plans offered by insurers.

Sec. 1301.303. SCORES. (a) The report card must include the following:

(1) a premium to direct patient care score;

(2) a network adequacy score;

(3) a claims paid score;

(4) an allowables cap score;

(5) an expected profit score;

(6) the number of persons covered for each preferred provider benefit plan;

(7) the total dollar amount of premiums earned by the preferred provider benefit plan; and

(8) the number of justified complaints.

(b) The report card must contain a plain-language explanation of the scores that is understandable to the average layperson.

Sec. 1301.304. RULEMAKING. The commissioner shall adopt rules in the manner prescribed by Subchapter A, Chapter 36, as necessary to implement this subchapter, including rules governing the filing of any financial reports or other information necessary for the annual report cards.

Sec. 1301.305. PUBLICATION AND PUBLICITY. (a) The commissioner shall:

(1) ensure the annual preferred provider benefit plan report cards are accessible to the public on the department's Internet website;

(2) provide the annual preferred provider benefit plan report cards to each member of each committee of the house of representatives or the senate that has jurisdiction over issues concerning health or insurance;

(3) provide a copy of the annual preferred provider benefit plan report card to each member of the public who submits a written request; and

(4) provide copies of the annual preferred provider benefit plan report card to public libraries throughout this state that request copies.

(b) The commissioner shall issue a press release when the annual report cards are issued under this subchapter.

SECTION _____. Chapter 843, Insurance Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. ANNUAL HEALTH MAINTENANCE ORGANIZATION REPORT CARDS

Sec. 843.501. DEFINITIONS. In this subchapter:

(1) "Direct losses incurred" means the sum of direct losses paid, plus an estimate of losses to be paid in the future, for all claims arising from the current reporting period and all prior reporting periods, minus the corresponding estimate made at the close of business for the preceding reporting period. The term does not include home office and other overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, utilization review costs, or claims processing costs.

(2) "Direct losses paid" means the sum of all payments made during the reporting period for claimants before reinsurance has been ceded or assumed. The term does not include home office and other overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, utilization review costs, or claims processing costs.

(3) "Direct premiums earned" means the amount of premium attributable to the coverage already provided in a given reporting period before reinsurance has been ceded or assumed.

(4) "Premium to direct patient care score" means direct losses incurred divided by direct premiums earned.

(5) "Network adequacy score" means the sum of the total number of claims paid as out-of-network by a health maintenance organization and paid under a point-of-service rider divided by the total number of claims paid by the health maintenance organization.

(6) "Claims paid score" means the sum of the total dollar amount paid by the health maintenance organization as out-of-network and the total dollar amount paid under a point-of-service rider divided by the total dollar amount of claims paid by the health maintenance organization, including amounts paid under a point-of-service rider.

(7) "Allowables cap score" means the aggregate percentage margin between the amount submitted on claims by non-contracted physicians or providers and the health maintenance organization's allowable amount or the usual and customary amounts the health maintenance organization is willing to pay.

(8) "Expected profit score" means the percentage of the premium dollar that represents the actuarially set allowance for profit.

(9) "Justified complaint" means a complaint submitted to the department for which the department determines there exists:

(A) a violation of an evidence of coverage provision, contract provision, rule, or statute; or

(B) a valid concern that a prudent layperson would regard as customary a practice or service that is below customary business practice.

Sec. 843.502. REPORT CARD. (a) The commissioner shall develop and issue an annual health maintenance organization report card that publicizes the scores described by Section 843.503. The report card must be in a format that permits direct comparison of health maintenance organizations.

(b) The department shall develop and issue the annual health maintenance organization report card required under this subchapter in consultation with the office of public insurance counsel and in addition to any report card issued under Subchapter F, Chapter 501.

(c) In addition to any other authority granted by this code, the office of public insurance counsel is entitled to obtain the information reported by health maintenance organizations to the department under this subchapter.

Sec. 843.503. SCORES. (a) The report card must include the following:

- (1) a premium to direct patient care score;
- (2) a network adequacy score;
- (3) a claims paid score;
- (4) an allowables cap score;
- (5) an expected profit score;
- (6) the number of enrollees;
- (7) the total dollar amount of premiums earned; and
- (8) the number of justified complaints.

(b) The report card must contain a plain-language explanation of the scores that is understandable to the average layperson.

Sec. 843.504. RULEMAKING. The commissioner shall adopt rules in the manner prescribed by Subchapter A, Chapter 36, as necessary to implement this subchapter, including rules governing the filing of any financial reports or other information necessary for the annual report cards.

Sec. 843.505. PUBLICATION AND PUBLICITY. (a) The commissioner shall:

(1) ensure the annual health maintenance organization report cards are accessible to the public on the department's Internet website;

(2) provide the annual health maintenance organization report cards to each member of each committee of the house of representatives or the senate that has jurisdiction over issues concerning health or insurance;

(3) provide a copy of the annual health maintenance organization report cards to each member of the public who submits a written request; and

(4) provide copies of the annual health maintenance organization report cards to public libraries throughout this state that request copies.

(b) The commissioner shall issue a press release when the annual report cards are issued under this subchapter.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Eiland offered the following amendment to **SB 23**:

Amend **SB 23**, house committee printing, by inserting the following ARTICLE in the bill, appropriately numbered, and renumbering the ARTICLES of the bill accordingly:

ARTICLE ____ . SECONDARY MARKET IN CERTAIN PHYSICIAN
AND HEALTH CARE PROVIDER DISCOUNTS

SECTION ____ .01. Subtitle D, Title 8, Insurance Code, is amended by adding Chapter 1302 to read as follows:

CHAPTER 1302. REGULATION OF SECONDARY MARKET IN CERTAIN
PHYSICIAN AND HEALTH CARE PROVIDER DISCOUNTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1302.001. DEFINITIONS. In this chapter:

(1) "Discount broker" means any entity engaged, for monetary or other consideration, in disclosing or transferring a contracted discounted fee of a physician or health care provider.

(2) "Health care provider" means a hospital, a physician-hospital organization, or an ambulatory surgical center.

(3) "Payor" means a fully self-insured health plan, a health benefit plan, an insurer, or another entity that assumes the risk for payment of claims by, or reimbursement for health care services provided by, physicians and health care providers.

(4) "Physician" means:

(A) an individual licensed to practice medicine in this state under the authority of Subtitle B, Title 3, Occupations Code;

(B) a professional entity organized in conformity with Title 7, Business Organizations Code, and permitted to practice medicine under Subtitle B, Title 3, Occupations Code;

(C) a partnership organized in conformity with Title 4, Business Organizations Code, comprised entirely by individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code;

(D) an approved nonprofit health corporation certified under Chapter 162, Occupations Code;

(E) a medical school or medical and dental unit, as defined or described by Section 61.003, 61.501, or 74.601, Education Code, that employs or contracts with physicians to teach or provide medical services or employs physicians and contracts with physicians in a practice plan; or

(F) any other person wholly owned by individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code.

(5) "Transfer" means to lease, sell, aggregate, assign, or otherwise convey a contracted discounted fee of a physician or health care provider.

Sec. 1302.002. EXEMPTIONS. This chapter does not apply to:

(1) the activities of:

(A) a health maintenance organization's network that are subject to Subchapter J, Chapter 843; or

(B) an insurer's preferred provider network that are subject to Subchapters C and C-1, Chapter 1301; or

(2) any aspect of the administration or operation of:

(A) the state child health plan; or

(B) any medical assistance program using a managed care organization or managed care principal, including the state Medicaid managed care program under Chapter 533, Government Code.

Sec. 1302.003. APPLICABILITY OF OTHER LAW. (a) Except as provided by Subsection (b), with respect to payment of claims, a discount broker, and any payor for whom a discount broker acts or who contracts with a discount broker, shall comply with Subchapters C and C-1, Chapter 1301, in the same manner as an insurer.

(b) This section does not apply to a payor that is a fully self-insured health plan.

Sec. 1302.004. RETALIATION PROHIBITED. A discount broker may not engage in any retaliatory action against a physician or health care provider because the physician or provider has:

(1) filed a complaint against the discount broker; or

(2) appealed a decision of the discount broker.

[Sections 1302.005-1302.050 reserved for expansion]

SUBCHAPTER B. REGISTRATION; POWERS AND DUTIES OF COMMISSIONER AND DEPARTMENT

Sec. 1302.051. REGISTRATION REQUIRED. Each discount broker that does not hold a certificate of authority or license otherwise issued by the department under this code must register with the department in the manner prescribed by the commissioner before engaging in business in this state.

Sec. 1302.052. RULES. The commissioner shall adopt rules in the manner prescribed by Subchapter A, Chapter 36, as necessary to implement and administer this chapter.

[Sections 1302.053-1302.100 reserved for expansion]

SUBCHAPTER C. PROHIBITION OF CERTAIN TRANSFERS; NOTICE REQUIREMENTS

Sec. 1302.101. PROHIBITION OF CERTAIN TRANSFERS. (a) A discount broker may not transfer a physician's or health care provider's contracted discounted fee or any other contractual obligation unless the transfer is authorized by a contractual agreement that complies with this chapter.

(b) This section does not affect the authority of the commissioner of insurance or the commissioner of workers' compensation under this code or Title 5, Labor Code, to request and obtain information.

Sec. 1302.102. IDENTIFICATION OF PAYORS; TERMINATION OF CONTRACT. (a) A discount broker shall notify each physician and health care provider of the identity of the payors and discount brokers authorized to access a contracted discounted fee of the physician or provider. The notice requirement under this subsection does not apply to an employer authorized to access a discounted fee through a discount broker.

(b) The notice required under Subsection (a) must:

(1) be provided, at least every 45 days, through:

(A) electronic mail, after provision by the affected physician or health care provider of a current electronic mail address; and

(B) posting of a list on a secure Internet website; and

(2) include a separate prominent section that lists the payors that the discount broker knows will have access to a discounted fee of the physician or health care provider in the succeeding 45-day period.

(b-1) Notwithstanding Subsection (b), and on the request of the affected physician or health care provider, the notice required under Subsection (a) may be provided through United States mail. This subsection expires September 1, 2009.

(c) The identity of a payor or discount broker authorized to access a contracted discounted fee of the physician or provider that becomes known to the discount broker required to submit the notice under Subsection (a) must be included in the subsequent notice.

(d) If, after receipt of the notice required under Subsection (a), a physician or health care provider objects to the addition of a payor to access to a discounted fee, other than a payor that is an employer or a discount broker listed in the notice required under Subsection (a), the physician or health care provider may terminate its contract by providing written notice to the discount broker not later than the 30th day after the date on which the physician or health care provider receives the notice required under Subsection (a). Termination of a contract under this subsection is subject to applicable continuity of care requirements under Section 843.362 and Subchapter D, Chapter 1301.

[Sections 1302.103-1302.150 reserved for expansion]

SUBCHAPTER D. RESTRICTIONS ON TRANSFERS

Sec. 1302.151. RESTRICTIONS ON TRANSFERS; EXCEPTION. (a) In this section, "line of business" includes noninsurance plans, fully self-insured health plans, Medicare Advantage plans, and personal injury protection under an automobile insurance policy.

(b) A contract between a discount broker and a physician or health care provider may not require the physician or health care provider to:

(1) consent to the disclosure or transfer of the physician's or health care provider's name and a contracted discounted fee for use with more than one line of business;

(2) accept all insurance products; or

(3) consent to the disclosure or transfer of the physician's or health care provider's name and access to a contracted discounted fee of the physician or provider in a chain of transfers that exceeds two transfers.

(c) Notwithstanding Subsection (b)(2), a contract between a discount broker and a physician or health care provider may require the physician or health care provider to accept all insurance products within a line of business covered by the contract.

[Sections 1302.152-1302.199 reserved for expansion]

SUBCHAPTER E. DISCLOSURE REQUIREMENTS

Sec. 1302.200. IMPLEMENTATION. (a) This subchapter takes effect January 1, 2008.

(b) This section expires January 2, 2008.

Sec. 1302.201. IDENTIFICATION OF DISCOUNT BROKER. An explanation of payment or remittance advice in an electronic or paper format must include the identity of the discount broker authorized to disclose or transfer the name and associated discounts of a physician or health care provider.

Sec. 1302.202. IDENTIFICATION OF ENTITY ASSUMING FINANCIAL RISK; DISCOUNT BROKER. A payor or representative of a payor that processes claims or claims payments must clearly identify in an electronic or paper format on the explanation of payment or remittance advice the identity of:

(1) the payor that assumes the risk for payment of claims or reimbursement for services; and

(2) the discount broker through which the payment rate and any discount are claimed.

Sec. 1302.203. INFORMATION ON IDENTIFICATION CARDS. If a discount broker or payor issues member or subscriber identification cards, the identification cards must identify, in a clear and legible manner, any third-party entity, including any discount broker:

(1) who is responsible for paying claims; and

(2) through whom the payment rate and any discount are claimed.

[Sections 1302.204-1302.250 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 1302.251. PENALTIES. (a) A discount broker who holds a certificate of authority or license under this code and who violates this chapter:

(1) commits an unfair settlement practice in violation of Chapter 541;

(2) commits an unfair claim settlement practice in violation of Subchapter A, Chapter 542; and

(3) is subject to administrative penalties in the manner prescribed by Chapters 82 and 84.

(b) A violation of this chapter by a discount broker who does not hold a certificate of authority or license under this code constitutes a violation of Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 1302.252. PRIVATE CAUSE OF ACTION. An affected physician or health care provider may bring a private action for damages in the manner prescribed by Subchapter D, Chapter 541, against a discount broker who violates this chapter.

SECTION __.02. Sections 1301.001(4) and (6), Insurance Code, are amended to read as follows:

(4) "Institutional provider" means a hospital, nursing home, or other medical or health-related service facility that provides care for the sick or injured or other care that may be covered in a health insurance policy. The term includes an ambulatory surgical center.

(6) "Physician" means:

(A) an individual [a person] licensed to practice medicine in this state under the authority of Title 3, Subtitle B, Occupations Code;

(B) a professional entity organized in conformity with Title 7, Business Organizations Code, and permitted to practice medicine under Subtitle B, Title 3, Occupations Code;

(C) a partnership organized in conformity with Title 4, Business Organizations Code, comprised entirely by individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code;

(D) an approved nonprofit health corporation certified under Chapter 162, Occupations Code;

(E) a medical school or medical and dental unit, as defined or described by Section 61.003, 61.501, or 74.601, Education Code, that employs or contracts with physicians to teach or provide medical services or employs physicians and contracts with physicians in a practice plan; or

(F) any other person wholly owned by individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code.

SECTION ____ .03. Section 1301.056, Insurance Code, is amended to read as follows:

Sec. 1301.056. RESTRICTIONS ON PAYMENT AND REIMBURSEMENT. (a) An insurer, ~~[or]~~ third-party administrator, or other entity may not reimburse a physician or other practitioner, institutional provider, or organization of physicians and health care providers on a discounted fee basis for covered services that are provided to an insured unless:

(1) the insurer, ~~[or]~~ third-party administrator, or other entity has contracted with either:

(A) the physician or other practitioner, institutional provider, or organization of physicians and health care providers; or

(B) a preferred provider organization that has a network of preferred providers and that has contracted with the physician or other practitioner, institutional provider, or organization of physicians and health care providers;

(2) the physician or other practitioner, institutional provider, or organization of physicians and health care providers has agreed to the contract and has agreed to provide health care services under the terms of the contract; and

(3) the insurer, ~~[or]~~ third-party administrator, or other entity has agreed to provide coverage for those health care services under the health insurance policy.

(b) A party to a preferred provider contract, including a contract with a preferred provider organization, may not sell, lease, assign, aggregate, disclose, or otherwise transfer the discounted fee, or any other information regarding the discount, payment, or reimbursement terms of the contract without the express authority of and ~~[prior]~~ adequate notification to the other contracting parties. This subsection does not:

(1) prohibit a payor from disclosing any information, including fees, to an insured; or

(2) affect the authority of the commissioner of insurance or the commissioner of workers' compensation under this code or Title 5, Labor Code, to request and obtain information.

(c) An insurer, third-party administrator, or other entity may not access a discounted fee, other than through a direct contract, unless notice has been provided to the contracted physicians, practitioners, institutional providers, and organizations of physicians and health care providers. For the purposes of the notice requirements of this subsection, the term "other entity" does not include an employer that contracts with an insurer or third-party administrator.

(d) The notice required under Subsection (c) must:

(1) be provided, at least every 45 days, through:

(A) electronic mail, after provision by the affected physician or health care provider of a current electronic mail address; and

(B) posting of a list on a secure Internet website; and

(2) include a separate prominent section that lists the insurers, third-party administrators, or other entities that the contracting party knows will have access to a discounted fee of the physician or health care provider in the succeeding 45-day period.

(d-1) Notwithstanding Subsection (d), and on the request of the affected physician or health care provider, the notice required under Subsection (c) may be provided through United States mail. This subsection expires September 1, 2009.

(e) The identity of an insurer, third-party administrator, or other entity authorized to access a contracted discounted fee of the physician or provider that becomes known to the contracting party required to submit the notice under Subsection (c) must be included in the subsequent notice.

(f) If, after receipt of the notice required under Subsection (c), a physician or other practitioner, institutional provider, or organization of physicians and health care providers objects to the addition of an insurer, third-party administrator, or other entity to access to a discounted fee, the physician or other practitioner, institutional provider, or organization of physicians and health care providers may terminate its contract by providing written notice to the contracting party not later than the 30th day after the date of the receipt of the notice required under Subsection (c).

(g) An insurer, third-party administrator, or other entity that processes claims or claims payments shall clearly identify in an electronic or paper format on the explanation of payment or remittance advice:

(1) the identity of the party responsible for administering the claims;
and

(2) if the insurer, third-party administrator, or other entity does not have a direct contract with the physician or other practitioner, institutional provider, or organization of physicians and health care providers, the identity of the preferred provider organization or other contracting party that authorized a discounted fee.

(h) If an insurer, third-party administrator, or other entity issues member or insured identification cards, the identification cards must include, in a clear and legible format, the information required under Subsection (g).

(i) An insurer, ~~or~~ third-party administrator, or other entity that holds a certificate of authority or license under this code who violates this section:

(1) commits an unfair settlement practice in violation of Chapter 541;

(2) commits an unfair claim settlement practice in violation of Subchapter A, Chapter 542; and

(3) [~~(2)~~] is subject to administrative penalties under Chapters 82 and 84.

(j) A violation of this section by an entity described by this section who does not hold a certificate of authority or license issued under this code constitutes a violation of Subchapter E, Chapter 17, Business & Commerce Code.

(k) A physician or health care provider affected by a violation of this section may bring a private action for damages in the manner prescribed by Subchapter D, Chapter 541, against a discount broker who violates this section.

SECTION ____.04. The change in law made by this Article applies only to a cause of action that accrues on or after the effective date of this Article. A cause of action that accrues before that date is governed by the law as it existed immediately before the effective date of this Article, and that law is continued in effect for that purpose.

SECTION ____.05. The commissioner of insurance shall adopt rules as necessary to implement Chapter 1302, Insurance Code, as added by this Article, not later than December 1, 2007.

SECTION ____.06. This Article applies only to a contract entered into or renewed on or after January 1, 2008. A contract entered into or renewed before January 1, 2008, is governed by the law as it existed immediately before the effective date of this Article, and that law is continued in effect for that purpose.

SECTION ____.07. This Article takes effect September 1, 2007.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Woolley offered the following amendment to **SB 23**:

Amend **SB 23** by inserting the following new article, appropriately numbered, and renumbering subsequent articles and sections of the bill accordingly:

ARTICLE ____ . REINSURANCE FOR SMALL EMPLOYER HEALTH BENEFIT PLANS

SECTION ____.01. Section 1501.3241, Insurance Code, is amended to read as follows:

Sec. 1501.3241. TEMPORARY LIMIT ON TOTAL ASSESSMENTS. Notwithstanding Section 1501.324, the maximum assessment amount payable for a calendar year may not exceed 10 percent of the total premiums earned in the preceding calendar year from small employer health benefit plans delivered or issued for delivery by reinsured health benefit plan issuers in this state. This section expires September 1, 2009 [~~2007~~].

SECTION ____.02. Subsections (d-1) and (e-1), Section 1501.325, Insurance Code, are amended to read as follows:

(d-1) During the period that this subsection is effective, Subsection (d) is not effective. A reinsured health benefit plan issuer may not cede additional eligible lives to the system during a calendar year if the assessment amount payable for the preceding calendar year is at least 10 percent of the total

premiums earned in that calendar year from small employer health benefit plans delivered or issued for delivery by reinsured health benefit plan issuers in this state. This subsection expires September 1, 2009 [~~2007~~].

(e-1) During the period that this subsection is effective, Subsection (e) is not effective. A reinsured health benefit plan issuer may not cede additional eligible lives to the system after the board determines that the expected loss from the reinsurance system for a year will exceed the total amount of assessments payable at a rate of 10 percent of the total premiums earned for the preceding calendar year. A reinsured health benefit plan issuer may not resume ceding additional eligible lives to the system until the board determines that the expected loss will be less than the maximum established by this subsection. This subsection expires September 1, 2009 [~~2007~~].

Amendment No. 7 was adopted.

(Woolley in the chair)

Amendment No. 8

Representative T. King offered the following amendment to **SB 23**:

Amend **SB 23**, house committee printing, by inserting the following SECTIONS in the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Section 91.043, Labor Code, is amended by adding Subsection (c) to read as follows:

(c) A license holder, on behalf of its client companies, may establish and sponsor a multiple employer welfare arrangement as provided by Chapter 846, Insurance Code, to provide a health benefit plan for the assigned employees of those client companies. For purposes of this subsection, "health benefit plan" has the meaning assigned by Section 846.001, Insurance Code.

SECTION _____. Section 846.053, Insurance Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Notwithstanding Subsections (b) through (e), a license holder under Chapter 91, Labor Code, on behalf of its client companies, may establish and sponsor a multiple employer welfare arrangement under this chapter to the extent authorized by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

SECTION _____. Section 91.043, Labor Code, as amended by this Act, applies only to a contract between a staff leasing services license holder and a client company that is entered into on or after the effective date of this Act. A contract entered into before that date is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 8 was adopted.

Amendment No. 9

Representative Taylor offered the following amendment to **SB 23**:

Amend **SB 23** (house committee printing) by inserting the following new ARTICLE, appropriately numbered, to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill appropriately:

ARTICLE _____. CONSUMER-DIRECTED HEALTH PLAN

SECTION _____.01. Subchapter E, Chapter 1551, Insurance Code, is amended by adding Section 1551.2045 to read as follows:

Sec. 1551.2045. CONSUMER-DIRECTED HEALTH PLAN. The board of trustees may create, for participants in the group program, an optional consumer-directed health plan that is composed of a high deductible health plan and a health savings account.

Amendment No. 9 was adopted.

Amendment No. 10

Representative Burnam offered the following amendment to **SB 23**:

Amend **SB 23** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. UNIVERSAL HEALTH CARE IN TEXAS. Not later than September 1, 2008, the Health and Human Services Commission, in consultation with any relevant agency, shall prepare, issue and distribute to the governor and each member of the legislature a report detailing the means by which the state of Texas could insure the maximum number of people and eventually implement a system of universal health care.

Amendment No. 10 was withdrawn.

Amendment No. 11

Representative Rose offered the following amendment to **SB 23**:

Amend **SB 23** (house committee printing) by inserting the following appropriately numbered article and renumbering articles of the bill accordingly:

ARTICLE _____. PROMOTION OF AVAILABILITY OF COVERAGE FOR
NON-NETWORK PROVIDERS

SECTION _____.01. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1458 to read as follows:

CHAPTER 1458. PROMOTION OF AVAILABILITY OF COVERAGE TO
NON-NETWORK HEALTH CARE PROVIDERS

Sec. 1458.001. DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual who is eligible to receive health care services through a health benefit plan.

(2) "Health care facility" means a hospital, emergency clinic, outpatient clinic, or other facility providing health care services.

(3) "Health care practitioner" means an individual who is licensed to provide and provides health care services, including a physician.

(4) "Health care provider" means a health care facility or health care practitioner.

(5) "Participating provider" means a health care provider who has a contract with a health benefit plan to provide medical or health care services to enrollees.

(6) "Non-participating provider" means a health care provider who does not have a contract with a health benefit plan to provide medical or health care services to enrollees.

Sec. 1458.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to any health benefit plan that:

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

(A) an insurance company;

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

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

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

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

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

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

(H) a preferred provider benefit plan operating under Chapter 1301; or,

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

(2) provides health and accident coverage through a risk pool created under Chapter 172, Local Government Code, notwithstanding Section 172.014, Local Government Code, or any other law.

(b) This chapter does not apply to health benefit plans that contract with the Health and Human Services Commission for the provision of:

(1) medical assistance under Chapter 32, Human Resources Code; or

(2) health benefits under the state child health plan.

Sec. 1458.003. ACCESS TO NONPARTICIPATING PROVIDERS. A health benefit plan that provides, through its health insurance policy, for the payment of a level of coverage that is different from a basic level of coverage provided by the health insurance policy if the enrollee uses a participating provider:

(1) must provide a level of coverage and reimbursement sufficient to ensure that each enrollee has reasonable access to medical and health care provided by participating and nonparticipating providers; and

(2) may not set a deductible, copayment, coinsurance, or other method of cost sharing so as to deny an enrollee reasonable access to medical and health care from nonparticipating providers.

Sec. 1458.004. HEALTH CARE PROVIDER RIGHTS. (a) A health benefit plan may not in any manner prohibit, attempt to prohibit, penalize, terminate, or otherwise restrict a participating provider from discussing with or communicating with an enrollee regarding the availability of nonparticipating providers for the provision of the enrollee's medical or health care services.

(b) A health benefit plan may not terminate the contract of or otherwise penalize a participating provider because the participating provider's patients use nonparticipating providers for medical or health care services.

(c) A participating provider who is terminated by a health benefit plan is entitled, on request, to all information used by the health benefit plan as reasons for the termination, including the economic profile of the terminated participating provider, the standards by which the terminated participating provider was measured, and any statistics underlying any economic profiling and standards.

(d) Notwithstanding any other law, a health benefit plan may not use economic credentialing as a basis for refusing to contract with a health care provider or terminating the contract of a participating provider unless the economic credentialing demonstrates materially higher costs incurred for patients of the health care provider or participating provider.

(e) A health benefit plan may not enter into a contract with a participating provider on the condition that another health care provider be excluded from participating as a participating provider.

(f) Notwithstanding any other law, a health care provider may voluntarily waive a deductible, copayment, or coinsurance established by a health benefit plan.

SECTION ____ .02. (a) Section 1458.003, Insurance Code, as added by this article, applies only to a health benefit plan insurance policy or contract delivered, issued for delivery, or renewed on or after January 1, 2008. A health benefit plan policy or contract issued before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 1458.004, Insurance Code, as added by this article, applies only to a contract entered into or renewed by a health care provider and an issuer of a health benefit plan on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Taylor offered the following amendment to **SB 23**:

Amend **SB 23** (house committee printing) as follows:

(1) In SECTION 1.01 of the bill, in proposed Section 524.003(a), strike Subdivisions (3) and (4) (page 2, lines 3-7) and renumber subsequent subdivisions of Subsection (a) appropriately.

(2) In SECTION 1.01 of the bill, in proposed Section 524.054(a) (page 4, lines 2-3), strike "and technical assistance concerning health coverage products".

(3) In SECTION 1.01 of the bill, in proposed Section 524.054(b) (page 4, lines 6 and 8), strike "health coverage products" each place the phrase appears and substitute "health insurance coverage".

Amendment No. 12 was adopted.

Amendment No. 13

Representative Gattis offered the following amendment to **SB 23**:

Amend **SB 23** (house committee printing) by adding the following SECTIONS to the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1508 to read as follows:

CHAPTER 1508. HEALTHY TEXAS PROGRAM
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1508.001. PURPOSE. (a) The purposes of the Healthy Texas Program established under this chapter are to:

(1) provide for access to quality small employer health benefit plans at an affordable price; and

(2) maximize reliance on strategies and procedures of managed care proven by the private sector.

(b) The program is not intended to diminish availability of traditional small employer health plan coverage to persons who are eligible for that coverage.

Sec. 1508.002. DEFINITIONS. In this chapter:

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

(2) "Group health benefit plan issuer" means an insurance company, association, organization, group hospital service corporation, or health maintenance organization that delivers or issues for delivery a group insurance policy or insurance agreement, a group hospital service contract, or a group evidence of coverage that provides health insurance or health care benefits. The term includes:

(A) a life, health, and accident insurance company operating under Chapter 841 or 982;

(B) a fraternal benefit society operating under Chapter 885; and

(C) a stipulated premium company operating under Chapter 884.

(3) "Program" means the Healthy Texas Program.

SUBCHAPTER B. CREATION OF PROGRAM; POWERS AND DUTIES OF COMMISSIONER

Sec. 1508.051. CREATION ON COMMISSIONER DETERMINATION.

(a) If the commissioner by rule determines that, in all or any part of this state, small employer group health benefit plan coverage is not reasonably available to

all market segments in the voluntary market, the commissioner may establish the Healthy Texas Program to deliver small employer group health benefit plans under this chapter to market segments identified as underserved.

(b) The program shall be administered by a board of directors and a management company in accordance with this chapter.

(c) The program is subject to the supervision and control of the commissioner.

Sec. 1508.052. GENERAL POWERS OF COMMISSIONER. (a) The commissioner shall provide general supervision for the program.

(b) In exercising authority under this chapter, the commissioner may:

(1) examine the operation of the program, and shall have free access to all the books, records, files, papers, and documents relating to the operation of the program as necessary to conduct an examination under this subdivision;

(2) summon, qualify, and examine as witnesses all persons having knowledge of program operations, including the members of the board, and officers and employees of the board;

(3) take any action necessary to enable this state and the program to fully participate in any federal program which may be enacted for purposes similar to the purposes of this chapter; and

(4) require the program to report to the department concerning risks insured by the program under this chapter, as considered necessary by the commissioner.

(c) The commissioner may review and approve policy forms, endorsements, and riders used by the program.

(d) The commissioner may receive and review rates and any rating methodology established for use by the program.

Sec. 1508.053. RULES. The commissioner may adopt rules as necessary to implement this chapter in the manner prescribed by Subchapter A, Chapter 36.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 1508.101. BOARD OF DIRECTORS. (a) The commissioner of insurance shall appoint the members of the board not later than the 31st day after the effective date of the commissioner rule under Section 1508.051(a) establishing the program. The board is composed of nine members appointed by the commissioner as follows:

(1) four members who are full-time employees of authorized small employer health benefit plan issuers;

(2) three public members who reside in this state; and

(3) two members who are licensed life and health insurance agents.

(b) Members serve staggered six-year terms.

(c) The commissioner or the commissioner's designated representative from the department shall serve as an ex officio member.

Sec. 1508.102. BOARD MEMBER IMMUNITY. (a) A member of the board is not liable for an act performed, or omission made, in good faith in the performance of powers and duties under this chapter.

(b) A cause of action does not arise against a member of the board for an act or omission described by Subsection (a).

Sec. 1508.103. OPEN MEETINGS; PUBLIC INFORMATION. The board is subject to:

- (1) the open meetings law, Chapter 551, Government Code; and
- (2) the public information law, Chapter 552, Government Code.

SUBCHAPTER D. PROGRAM ADMINISTRATION

Sec. 1508.151. PROGRAM AUTHORITY. (a) The program may exercise any of the authority that a health benefit plan issuer authorized to write health benefit plans in this state may exercise under the laws of this state.

(b) The program shall operate as a health benefit plan issuer, and is subject to the maintenance tax imposed under Chapter 257 as if the program were an insurer.

Sec. 1508.152. PLAN OF OPERATION; COMMISSIONER APPROVAL.

(a) The board shall submit to the commissioner a plan of operation and any amendments to that plan necessary or suitable to ensure the fair, reasonable, and equitable administration of the program.

(b) The plan of operation must be approved by the commissioner before inception of any program operations.

(c) The commissioner by rule may approve the plan of operation and any subsequent amendments if the commissioner determines the plan or the plan as amended is suitable to ensure the fair, reasonable, and equitable administration of the program.

(d) The plan of operation is effective on the written approval of the commissioner.

Sec. 1508.153. MANAGEMENT COMPANY. (a) To fully carry out the purposes of the program, the board shall contract with a management company that is qualified to administer, manage, and operate the program. The management company must hold a certificate of authority as an administrator under Chapter 4151.

(b) The management company must be approved by the commissioner.

Sec. 1508.154. FILING OF RATES. The board shall file with the commissioner the proposed rates and rate information to be used by the program in connection with the issuance of policies, riders, or endorsements. Rates must be set in amounts sufficient to carry all claims to maturity and to meet all expenses incurred in the writing and servicing of the business.

Sec. 1508.155. AUDIT. (a) The board shall by contract secure the services of an independent auditor, who shall annually audit:

- (1) the operations and transactions of the program; and
- (2) the manner in which the management company is performing the company's duties.

(b) The independent auditor shall deliver to the board a report of the results of the audit conducted under this section.

Sec. 1508.156. ANNUAL REPORT. (a) The board shall compile a calendar year annual operating report regarding the program, and shall submit the report to the commissioner not later than March 31 of the following calendar year.

(b) The annual report must be accompanied by a copy of the auditor's report under Section 1508.155(b).

Sec. 1508.157. PROGRAM COVERAGE; ELIGIBILITY. (a) A small employer health benefit plan offered through the program must provide coverage consistent with that offered under a small employer health benefit plan subject to Subchapter F, Chapter 1501.

(b) An applicant for coverage from the program is eligible for the coverage if the applicant has:

(1) not been covered by a health benefit plan during the 12-month period preceding the date of the application; or

(2) has lost health benefit plan coverage due to a qualifying event.

(c) The commissioner by rule shall establish employer contribution and employee participation requirements applicable to coverage under the program, as well as other participation criteria applicable to small employer participation.

Sec. 1508.158. CONTRACTS. The board may, subject to commissioner approval, enter into contracts as necessary or proper to implement this chapter.

SUBCHAPTER E. PROGRAM DISSOLUTION

Sec. 1508.201. DEFINITION. In this subchapter, "plan" means the plan of dissolution and termination of the program required by this subchapter.

Sec. 1508.202. PLAN OF DISSOLUTION. (a) The board, at the direction of the commissioner and not later than the seventh anniversary of the date on which the program is established, shall develop and submit to the commissioner a plan for dissolution of the program and termination of program operations in accordance with this subchapter.

(b) The plan must:

(1) ensure the fair, reasonable, and equitable winding down and dissolution of the program and termination of program operations; and

(2) provide for the sharing of any remaining program assets on a proportionate basis in accordance with this subchapter.

Sec. 1508.203. APPROVAL OF PLAN BY COMMISSIONER; COMMISSIONER ACTION IF PLAN NOT APPROVED. (a) The commissioner may approve the plan if the commissioner determines the plan meets the requirements of Sections 1508.202 and 1508.204. The plan is effective on the written approval of the commissioner.

(b) If the board fails to submit a plan the commissioner can approve, the commissioner, after notice and hearing, shall adopt a plan by rule.

Sec. 1508.204. PLAN REQUIREMENTS. (a) The plan must:

(1) specify the date after which a person covered by a small employer health benefit plan issued by the program and effective on the date of the plan of dissolution may not submit additional claims;

(2) provide for:

(A) the filing, receipt, processing, and payment of all claims against the program, and all debts of the program, and the extinguishment of all liabilities of the program, including balances on any lines of credit that may have been established by or on behalf of the program, and including any credit for or refund of any overpayment;

(B) the collection and receipt of all outstanding amounts owed to the program;

(C) a final audit of the program by the state auditor, as provided by Section 1508.205; and

(D) the distribution of any surplus assets of the program that remain after the closing date, in a manner that shares the remaining program assets on a proportionate basis and in accordance with this section; and

(3) specify, as the closing date, the effective date of the closing of the transactions required by the plan and addressed in this section.

(b) The closing date may not be earlier than the third anniversary, or later than the seventh anniversary, of the effective date of the plan.

Sec. 1508.205. AUDIT. The transactions necessary to complete execution of the plan are subject to audit by the state auditor under Chapter 321, Government Code. The state auditor shall report the cost of the final audit conducted under this section to the board and the comptroller, and the board shall remit that amount to the comptroller for deposit to the general revenue fund.

Sec. 1508.206. OPERATION OF PROGRAM AFTER CLOSING DATE.

(a) The program shall continue the program's existence until the third anniversary of the closing date established by the plan, solely for the purpose of prosecuting or defending in the program's name any action or proceeding by or against the program.

(b) During the three-year period established by Subsection (a), the board members serving at the time of dissolution shall continue to manage the affairs of the program for the sole purpose stated by that subsection, and have the powers and immunities necessary to accomplish that sole purpose, in accordance with Section 1508.102.

(c) If, during the three-year period established by Subsection (a), a board member fails to serve, the commissioner shall appoint a replacement member in accordance with Section 1508.101.

SUBCHAPTER F. REVENUE BOND PROGRAM AND PROCEDURES

Sec. 1508.251. LEGISLATIVE FINDING. The legislature finds that the issuance of bonds for the purpose of providing a method to raise funds to provide small employer health benefit plans through the Healthy Texas Program for employers in this state is for the benefit of the public and in furtherance of a public purpose.

Sec. 1508.252. DEFINITION. In this subchapter, "bond resolution" means the resolution or order authorizing bonds to be issued under this subchapter.

Sec. 1508.253. APPLICABILITY OF OTHER LAWS. (a) The following laws apply to bonds issued under this subchapter to the extent consistent with this subchapter:

- (1) Chapters 1201 through 1202, Government Code;
- (2) Chapters 1205 through 1207, Government Code;
- (3) Chapters 1231 through 1232, Government Code; and
- (4) Chapter 1371, Government Code.

(b) In the event of a conflict between this subchapter and a law listed in Subsection (a), this subchapter controls.

Sec. 1508.254. ISSUANCE OF BONDS AUTHORIZED. On behalf of the program, the Texas Public Finance Authority shall issue revenue bonds to:

- (1) establish the initial surplus of the program;
- (2) establish and maintain reserves;
- (3) pay initial operating costs;
- (4) pay costs related to issuance of the bonds; and
- (5) pay other costs related to the bonds as may be determined by the

board.

Sec. 1508.255. BOND LIMITS. The Texas Public Finance Authority may issue, on behalf of the program, bonds in a total amount not to exceed \$200 million.

Sec. 1508.256. TERMS OF ISSUANCE; BOND CONDITIONS. (a) Bonds may be issued at public or private sale.

(b) Bonds may mature not later than the 20th anniversary of the date of issuance.

(c) Bonds must be issued in the name of the program.

Sec. 1508.257. ADDITIONAL COVENANTS. In a bond resolution, the board may make additional covenants with respect to the bonds and the designated income and receipts of the program pledged to payment of the bonds, and may provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the bonds.

Sec. 1508.258. SPECIAL ACCOUNTS. (a) A bond resolution may establish special accounts, including an interest and sinking fund account, reserve account, and other accounts.

(b) The chief financial officer of the program or the officer's designee shall administer the accounts in accordance with this code.

Sec. 1508.259. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

(a) Bonds are payable only from:

(1) the maintenance tax surcharge established under Section 1508.260;

or

(2) any other amounts the program is authorized to levy, charge, or collect in connection with paying any portion of the bonds.

(b) Bonds are obligations solely of the program. Bonds do not create a pledging, giving, or lending of the faith, credit, or taxing authority of this state.

(c) Each bond must include a statement that the state is not obligated to pay any amount on the bond and that the faith, credit, and taxing authority of this state are not pledged, given, or lent to those payments.

(d) Each bond issued under this subchapter must state on its face that the bond is payable solely from the revenues pledged for that purpose and that the bond does not and may not constitute a legal or moral obligation of the state.

Sec. 1508.260. MAINTENANCE TAX SURCHARGE. (a) A maintenance tax surcharge is assessed against:

(1) the program; and

(2) subject to Subsection (d), each group health benefit plan issuer in this state that issues a group health benefit plan to an employer to provide health insurance or health care benefits.

(b) The maintenance tax surcharge under Subsection (a)(1) shall be set in an amount sufficient to pay all debt service on the bonds. The maintenance tax surcharge shall be set by the commissioner at the same time and shall be collected by the comptroller on behalf of the program in the same manner as provided under Chapter 257 for the collection of the maintenance tax assessed under that chapter.

(c) To establish the surcharge under Subsection (b), the commissioner shall increase the maintenance tax rate to which the program is subject to a rate sufficient to pay all debt service on the bonds, subject to the maximum tax rate established by Chapter 257. If the resulting tax rate is insufficient to pay all costs for the program under this subchapter and all debt service on the bonds, the commissioner may assess an additional surcharge to the program, not to exceed one percent of the program's gross small employer group health benefit plan premiums, as necessary to cover all debt service on the bonds. In this subsection, the maintenance tax surcharge includes the additional maintenance tax assessed under this subsection and the additional surcharge assessed under this subsection to pay all debt service of the bonds.

(d) If the assessment procedure established under Subsection (c) is insufficient to cover all debt service on the bonds, and subject to the operating procedure provisions in the program plan of operation, the commissioner may assess group health benefit plan issuers described by Subsection (a)(2) a surcharge, not to exceed one percent of the gross group health benefit plan premiums, exclusive of small employer group health benefit plan premiums, to cover all debt service on the bonds. For purposes of this subsection, the maintenance tax surcharge includes the surcharge assessed under this subsection to pay all debt service of the bonds.

(e) The program and a group health benefit plan issuer, respectively, may pass through the maintenance tax surcharge established under Subsections (c) and (d) to the policyholders of the program and those issuers.

Sec. 1508.261. EXEMPTION FROM TAXATION. The bonds issued under this subchapter, any interest from the bonds, and all assets pledged to secure the payment of the bonds are free from taxation by this state or a political subdivision of this state.

Sec. 1508.262. AUTHORIZED INVESTMENTS. Bonds issued under this subchapter constitute authorized investments under Subchapter D, Chapter 425.

Sec. 1508.263. STATE NOT TO IMPAIR BOND OBLIGATIONS; PLEDGE. (a) The state pledges to and agrees with the owners of any bonds issued in accordance with this subchapter that the state will not limit or alter the rights vested in the program to fulfill the terms of any agreements made with the owners of the bonds or in any way impair the rights and remedies of those owners until the bonds, any premium or interest, and all costs and expenses in connection with any action or proceeding by or on behalf of those owners are fully met and discharged.

(b) The program may include the pledge and agreement of the state in any agreement with the owners of the bonds.

Sec. 1508.264. ENFORCEMENT BY MANDAMUS. A writ of mandamus and all other legal and equitable remedies are available to any party at interest to require the program and any other party to carry out agreements and to perform functions and duties under this subchapter, the Texas Constitution, or a bond resolution.

SECTION _____. (a) Not later than November 1, 2008, the commissioner of insurance shall provide an interim progress report to the lieutenant governor, the speaker of the house of representatives, and the members of the 81st Legislature regarding the operation of the Healthy Texas Program established under Chapter 1508, Insurance Code, as added by this Act. The report must include information regarding:

- (1) the potential economic impact that the program would have on the small employer insurance market in this state;
- (2) the anticipated impact that the program would have on the quality of health care provided in this state;
- (3) the progress of any proposed or adopted rules addressing the program;
- (4) the progress of a draft or approved plan of operation for the program; and
- (5) the efficacy and feasibility of expanding the program to include application to governmental entities.

(b) A health benefit plan may not be issued by the Healthy Texas Program established under Chapter 1508, Insurance Code, as added by this Act, before January 1, 2010.

Amendment No. 13 was adopted.

Amendment No. 14

Representative Coleman offered the following amendment to **SB 23**:

Amend **SB 23** (house committee printing) as follows:

(1) In SECTION 1.01 of the bill, between amended Section 524.051, Insurance Code, and amended Section 524.052, Insurance Code (page 2, between lines 23 and 24), insert the following:

Sec. 524.0512. INFORMATION ABOUT AVAILABILITY OF CERTAIN COVERAGE. The division shall include information in the program's materials about the availability under certain health benefit plans of maximum lifetime benefits for acute or chronic medical conditions as provided by Chapter 1377.

(2) Insert the following appropriately numbered ARTICLE to the bill and renumber subsequent ARTICLES of the bill accordingly:

ARTICLE _____.LIFETIME BENEFITS FOR CERTAIN MEDICAL
CONDITIONS

SECTION _____.01. Subtitle E, Title 8, Insurance Code, is amended by adding Chapter 1377 to read as follows:

CHAPTER 1377. MAXIMUM LIFETIME BENEFITS FOR ACUTE OR
CHRONIC MEDICAL CONDITIONS

Sec. 1377.001. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842;
- (3) a fraternal benefit society operating under Chapter 885;
- (4) a stipulated premium company operating under Chapter 884;
- (5) an exchange operating under Chapter 942;
- (6) a health maintenance organization operating under Chapter 843;
- (7) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or
- (8) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) This chapter applies to group health coverage made available by a school district in accordance with Section 22.004, Education Code.

(c) Notwithstanding Section 172.014, Local Government Code, or any other law, this chapter applies to health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.

(d) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

- (1) a basic coverage plan under Chapter 1551;
- (2) a basic plan under Chapter 1575;
- (3) a primary care coverage plan under Chapter 1579; and
- (4) basic coverage under Chapter 1601.

(e) Notwithstanding any other law, a standard health benefit plan provided under Chapter 1507 must provide the coverage required by this chapter.

(f) Notwithstanding Section 1501.251 or any other law, this chapter applies to coverage under a small employer health benefit plan subject to Chapter 1501.

Sec. 1377.002. EXCEPTION. This chapter does not apply to:

- (1) a plan that provides coverage:
 - (A) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;
 - (B) as a supplement to a liability insurance policy;
 - (C) for credit insurance;
 - (D) only for dental or vision care;
 - (E) only for hospital expenses; or
 - (F) only for indemnity for hospital confinement;
- (2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);
- (3) a workers' compensation insurance policy;

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

(5) a long-term care policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Section 1377.001.

Sec. 1377.003. MAXIMUM LIFETIME BENEFIT. A health benefit plan that limits the maximum lifetime benefit applicable to an acute or chronic medical condition of an individual covered under the plan to a specified dollar amount may not limit the benefit to an amount less than \$5 million.

Sec. 1377.004. RULES. The commissioner may adopt rules in accordance with Subchapter A, Chapter 36, as necessary to implement this article. The rules may specify the types of acute or chronic medical conditions to which the restriction of Section 1377.003 applies.

SECTION ____ .02. Section 1506.151, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Coverage provided by the pool is subject to Chapter 1377.

SECTION ____ .03. This article applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2008. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2008, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 14 was adopted.

Amendment No. 15

Representative Burnam offered the following amendment to **SB 23**:

Amend **SB 23** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.100 to read as follows:

Sec. 531.100. UNIVERSAL HEALTH CARE IN TEXAS. (a) Not later than September 1, 2008, the commission, in consultation with any relevant agency, shall prepare, issue, and distribute to the governor and each member of the legislature a report detailing the means by which this state could insure the maximum number of people and eventually implement a system of universal health care.

(b) The commission shall publish the report required by Subsection (a) online on the commission's website to educate the public of this state.

(c) This section expires September 1, 2009.

Representative Smithee moved to table Amendment No. 15.

A record vote was requested.

The motion to table prevailed by (Record 1578): 89 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Anderson; Aycocock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Eiland; Eissler; Elkins; England; Farabee; Flynn; Gattis; Geren; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Homer; Hopson; Howard, C.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Krusee; Kuempel; Laubenberg; Macias; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley(C); Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; Escobar; Farias; Farrar; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; Menendez; Miles; Naishtat; Oliveira; Olivo; Ortiz; Raymond; Rodriguez; Rose; Strama; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker.

Absent, Excused — Latham; Mowery; Noriega.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Flores; Goolsby; Hughes; McClendon; Moreno.

Amendment No. 16

Representative Gallego offered the following amendment to **SB 23**:

Amend **SB 23** as follows:

(1) In SECTION 1.01 of the bill, between amended Section 524.051, Insurance Code, and amended Section 524.052, Insurance Code (page 2, between lines 23 and 24), insert the following:

Sec. 524.0513. INFORMATION ABOUT AVAILABILITY OF CERTAIN COVERAGE. The division shall include information in the program's materials about the availability under certain health benefit plans of coverage for prosthetic devices, orthotic devices, and related services provided by Chapter 1371.

(2) Insert the following new ARTICLE, appropriately numbered, and renumber subsequent ARTICLES and SECTIONS of the bill appropriately:

ARTICLE ____ . COVERAGE FOR CERTAIN PROSTHETIC DEVICES,
ORTHOTIC DEVICES, AND RELATED SERVICES

SECTION ____ .01. Subtitle E, Title 8, Insurance Code, is amended by adding Chapter 1371 to read as follows:

CHAPTER 1371. COVERAGE FOR CERTAIN PROSTHETIC DEVICES,
ORTHOTIC DEVICES, AND RELATED SERVICES

Sec. 1371.001. DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual entitled to coverage under a health benefit plan.

(2) "Orthotic device" means a custom-fitted or custom-fabricated medical device that is applied to a part of the human body to correct a deformity, improve function, or relieve symptoms of a disease.

(3) "Prosthetic device" means an artificial device designed to replace, wholly or partly, an arm or leg.

Sec. 1371.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan, including a small employer health benefit plan written under Chapter 1501 or coverage provided by a health group cooperative under Subchapter B of that chapter, that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

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

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

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

(5) a reciprocal exchange operating under Chapter 942;

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

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

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

(9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) Notwithstanding Section 172.014, Local Government Code, or any other law, this chapter applies to health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.

(c) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

(1) a basic coverage plan under Chapter 1551;

(2) a basic plan under Chapter 1575;

(3) a primary care coverage plan under Chapter 1579; and

(4) basic coverage under Chapter 1601.

Sec. 1371.003. REQUIRED COVERAGE FOR PROSTHETIC DEVICES, ORTHOTIC DEVICES, AND RELATED SERVICES. (a) A health benefit plan must provide coverage for prosthetic devices, orthotic devices, and professional services related to the fitting and use of those devices that equals the coverage provided under federal laws for health insurance for the aged and disabled under Sections 1832, 1833, and 1834, Social Security Act (42 U.S.C. Sections 1395k, 1395l, and 1395m), and 42 C.F.R. Sections 410.100, 414.202, 414.210, and 414.228, as applicable.

(b) Covered benefits under this chapter are limited to the most appropriate model of prosthetic device or orthotic device that adequately meets the medical needs of the enrollee as determined by the enrollee's treating physician or podiatrist and prosthetist or orthotist, as applicable.

(c) Subject to applicable copayments and deductibles, the repair and replacement of a prosthetic device or orthotic device is a covered benefit under this chapter unless the repair or replacement is necessitated by misuse or loss by the enrollee.

(d) Coverage required under this section:

(1) must be provided in a manner determined to be appropriate in consultation with the treating physician or podiatrist and prosthetist or orthotist, as applicable, and the enrollee;

(2) may be subject to annual deductibles, copayments, and coinsurance that are consistent with annual deductibles, copayments, and coinsurance required for other coverage under the health benefit plan; and

(3) may not be subject to annual dollar limits.

(e) Covered benefits under this chapter may be provided by a pharmacy that has employees who are qualified under the Medicare system and applicable Medicaid regulations to service and bill for orthotic services. This chapter does not preclude a pharmacy from being reimbursed by a health benefit plan for the provision of orthotic services.

Sec. 1371.004. PREAUTHORIZATION. A health benefit plan may require prior authorization for a prosthetic device or an orthotic device in the same manner that the health benefit plan requires prior authorization for any other covered benefit.

Sec. 1371.005. MANAGED CARE PLAN. A health benefit plan provider may require that, if coverage is provided through a managed care plan, the benefits mandated under this chapter are covered benefits only if the prosthetic devices or orthotic devices are provided by a vendor or a provider, and related services are rendered by a provider, that contracts with or is designated by the health benefit plan provider. If the health benefit plan provider provides in-network and out-of-network services, the coverage for prosthetic devices or orthotic devices provided through out-of-network services must be comparable to that provided through in-network services.

SECTION ____ .02. Chapter 1371, Insurance Code, as added by this article, applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2008. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2008, is covered by the law in effect at the time the plan was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Homer offered the following amendment to **SB 23**:

Amend **SB 23** (House Committee Printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering existing ARTICLES of the bill accordingly:

ARTICLE ____ . ELECTION OF COMMISSIONER

SECTION ____ .01. The heading to Section 31.022, Insurance Code, is amended to read as follows:

Sec. 31.022. ELECTION ~~[APPOINTMENT; TERM].~~

SECTION _____.02. Section 31.022(a), Insurance Code, is amended to read as follows:

(a) ~~The commissioner is elected by the qualified voters at the general election for state and county officers for a term of four years. [The governor, with the advice and consent of the senate, shall appoint the commissioner. The commissioner serves a two year term that expires on February 1 of each odd-numbered year.]~~

SECTION _____.03. Section 31.024, Insurance Code, is amended to read as follows:

Sec. 31.024. INELIGIBILITY FOR PUBLIC OFFICE. The commissioner is ineligible to be a candidate for another ~~[a]~~ public elective office in this state, unless the commissioner has resigned and the governor has accepted the resignation.

SECTION _____.04. Section 31.027(a), Insurance Code, is amended to read as follows:

(a) It is a ground for removal from office if the commissioner:

(1) ~~[does not have at the time of appointment the qualifications required by Section 31.023;~~

~~[(2) does not maintain during service as commissioner the qualifications required by Section 31.023;~~

~~[(3) violates a prohibition established by Section 33.001, 33.003, 33.004, or 33.005; or~~

(2) ~~[(4)]~~ cannot, because of illness or disability, discharge the commissioner's duties for a substantial part of the commissioner's term.

SECTION _____.05. Sections 33.004(a) and (b), Insurance Code, are amended to read as follows:

(a) A person who is an officer, employee, or paid consultant of a trade association in the field of insurance may not be[-

~~[(1) the commissioner; or~~

~~[(2)]~~ an employee of the department who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a trade association in the field of insurance may not be[-

~~[(1) the commissioner; or~~

~~[(2)]~~ an employee of the department who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

SECTION _____.06. Section 52.092(c), Election Code, is amended to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

(1) governor;

- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) commissioner of the General Land Office;
- (6) commissioner of agriculture;
- (7) commissioner of insurance;
- (8) railroad commissioner;
- (9) [~~(8)~~] chief justice, supreme court;
- (10) [~~(9)~~] justice, supreme court;
- (11) [~~(10)~~] presiding judge, court of criminal appeals;
- (12) [~~(11)~~] judge, court of criminal appeals.

SECTION _____.07. Section 504.401(d), Transportation Code, is amended to read as follows:

- (d) In this section, "state official" means:
- (1) a member of the legislature;
 - (2) the governor;
 - (3) the lieutenant governor;
 - (4) a justice of the supreme court;
 - (5) a judge of the court of criminal appeals;
 - (6) the attorney general;
 - (7) the commissioner of the General Land Office;
 - (8) the comptroller;
 - (9) a member of the Railroad Commission of Texas;
 - (10) the commissioner of agriculture;
 - (11) the commissioner of insurance;
 - (12) the secretary of state; or
 - (13) [~~(12)~~] a member of the State Board of Education.

SECTION _____.08. Sections 31.022(b), 31.023, 31.027, and 33.002, Insurance Code, are repealed.

SECTION _____.09. (a) The first general election for commissioner of insurance shall be held November 4, 2008, for a two-year term beginning on January 1, 2009. Thereafter, the commissioner of insurance shall be elected to serve a four-year term.

(b) Until the first commissioner of insurance elected under this Act takes office, the commissioner serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the office, and that prior law is continued in effect for that purpose. If on January 1, 2009, there is a vacancy in the office of commissioner of insurance created under this Act because the first commissioner-elect has died or refuses or is permanently unable to serve, the commissioner serving on that date shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the office until the governor fills the vacancy by appointment in the manner provided by law. The prior law that governed the office of the commissioner of insurance is continued in effect for that purpose.

SECTION _____.010. Notwithstanding any other provision of this Act, Sections _____.04 and _____.06 of this Article take effect January 1, 2009.

Amendment No. 17 - Point of Order

Representative Taylor raised a point of order against further consideration of Amendment No. 17 under Rule 8, Section 3 of the House Rules on the grounds that the amendment violates the one subject rule.

The chair sustained the point of order.

The ruling precluded further consideration of Amendment No. 17.

Amendment No. 18

Representative Deshotel offered the following amendment to **SB 23**:

Amend **SB 23**, in Section 1551.2045, Insurance Code, as added by Amendment No. ____ by Taylor at the end of the section, following the period, by inserting "The board of trustees must permit an individual participating in the consumer-directed health plan to elect to terminate participation in that plan and resume participation in the health coverage offered through the group program."

Amendment No. 18 was adopted.

SB 23, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Phillips recorded voting no.)

CSSB 785 ON SECOND READING

(Morrison - House Sponsor)

CSSB 785, A bill to be entitled An Act relating to information related to the performance of an abortion; creating an offense.

CSSB 785 was read second time earlier today and was postponed until this time.

CSSB 785 - POINT OF ORDER

Representative Dutton raised a point of order against further consideration of **CSSB 785** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Morrison moved to postpone consideration of **CSSB 785** until 4 p.m. today.

The motion prevailed.

MAJOR STATE CALENDAR

(consideration continued)

CSSB 10 ON SECOND READING

(Delisi - House Sponsor)

CSSB 10, A bill to be entitled An Act relating to the operation and financing of the medical assistance program and other programs to provide health care benefits and services to persons in this state; providing penalties.

Amendment No. 1

Representative Truitt offered the following amendment to **CSSB 10**:

Amend **CSSB 10** on page 44, lines 12, by inserting a new Subsection 32.0641(c) to read as follows:

(c) If the executive commissioner of the Health and Human Services Commission adopts a copayment or other cost-sharing payment under Subsection (a), the commission shall not reduce hospital payments to reflect the potential receipt of a copayment or other payment from a recipient for any hospital emergency room services.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Straus offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (house committee printing) by inserting the following new SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Texas Department of Insurance.

(b) The department and the commission shall jointly study a small employer premium assistance program to provide financial assistance for the purchase of small employer health benefit plans by small employers.

(c) The study conducted under this section must address:

(1) options for program funding, including use of money in the Texas health opportunity pool trust fund as described by Section 531.507, Government Code;

(2) coordination with any other premium assistance effort operated, under development, or under consideration by either agency; and

(3) recommended program design, including:

(A) the manner of targeting small employers;

(B) provisions to discourage employers and others from electing to discontinue other private coverage for employees;

(C) a minimum premium, or percentage of premium, that a small employer must pay for each eligible employee's coverage;

(D) eligibility requirements for enrollees for whom financial assistance is provided to individuals;

(E) allocation of opportunities for enrollment in the program;

(F) the duration of enrollment in the program and requirements for renewal; and

(G) verification that small employers participating in the program use premium assistance to purchase and maintain a small employer health benefit plan.

(d) In conducting the study, the department and the commission may consider programs and efforts undertaken by other states to provide premium assistance to small employers.

(e) Not later than November 1, 2008, the department and the commission shall jointly submit a report to the 81st Legislature. The report must summarize the results of the study conducted under this section and the recommendations of the department and commission and may include recommendations for proposed legislation to implement a small employer premium assistance program as described by Subsection (b) of this section.

Amendment No. 2 was adopted.

Amendment No. 3

Representative J. Davis offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (house committee printing) as follows:

(1) In the recital to SECTION 2(a) of the bill (page 5, line 10), strike "Sections 531.02413 and 531.02414" and substitute "Section 531.02414".

(2) In SECTION 2(a) of the bill, strike added Section 531.02413, Government Code (page 5, line 12, through page 6, line 25).

Amendment No. 3 was adopted.

Amendment No. 4

Representative Raymond offered the following amendment to **CSSB 10**:

Amend **CSSB 10** in SECTION 5 of the bill, immediately following proposed Subsection (c), Section 531.506, Government Code (house committee report, page 22, between lines 20 and 21), by inserting the following:

(d) Except as otherwise provided by the terms of a waiver authorized by Section 531.502, money in the fund may also be allocated to federally qualified health centers, as defined by 42 U.S.C. Section 1396d(1)(2)(B), in this state to defray the costs of providing uncompensated health care in this state.

Amendment No. 4 was adopted.

Amendment No. 5

Representative D. Howard offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (House Committee Report) as follows:

(1) In Section 14 of the bill, in added Section 32.151, Human Resources Code (page 49, lines 22 through 27), strike Subdivision (4) and substitute the following:

(4) "Provider" means:

(A) an individual licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code;

(B) a professional association of four or fewer physicians formed under the Texas Professional Association Law, as described by Section 1.008, Business Organizations Code; or

(C) an advanced practice nurse licensed and authorized to practice under Subtitle E, Title 3, Occupations Code.

(2) In SECTION 14 of the bill, in added Section 32.152, Human Resources Code (page 50, line 7), strike "physicians" and substitute "providers".

(3) In SECTION 14 of the bill, in added Section 32.153, Human Resources Code (page 50, lines 10 and 13), strike "physicians" each time it appears and substitute "providers".

(4) In SECTION 14 of the bill, in Subdivision (3), in added Section 32.153, Human Resources Code (page 50, line 16), strike "physicians" and substitute "providers".

Amendment No. 5 was adopted.

Amendment No. 6

Representative McReynolds offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (House Committee Report) as follows:

(1) In Section 14 of the bill, in added Section 32.151, Human Resources Code (page 49, lines 22 through 27), strike Subdivision (4) and substitute the following:

(4) "Provider" means:

(A) an individual licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code;

(B) a professional association of four or fewer physicians formed under the Texas Professional Association Law, as described by Section 1.008, Business Organizations Code; or

(C) an advanced practice nurse licensed and authorized to practice under Subtitle E, Title 3, Occupations Code.

(2) In SECTION 14 of the bill, in added Section 32.152, Human Resources Code (page 50, line 7), strike "physicians" and substitute "providers".

(3) In SECTION 14 of the bill, in added Section 32.153, Human Resources Code (page 50, lines 10 and 13), strike "physicians" each time it appears and substitute "providers".

(4) In SECTION 14 of the bill, in Subdivision (3), in added Section 32.153, Human Resources Code (page 50, line 16), strike "physicians" and substitute "providers".

Amendment No. 6 was adopted.

Amendment No. 7

Representative J. Davis offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (House committee printing) as follows:

(1) In SECTION 18(b) of the bill (page 56, line 22), strike "six" and substitute "10".

(2) In SECTION 18(b)(1) of the bill (page 56, line 23), strike "three" and substitute "five".

(3) In SECTION 18(b)(2) of the bill (page 56, line 25), strike "three" and substitute "five".

Amendment No. 7 was adopted.

Amendment No. 8

Representative Deshotel offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (House committee printing) as follows:

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

SECTION _____. (a) Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0057 to read as follows:

Sec. 531.0057. PROVISION OF TRANSPORTATION SERVICES. (a) Notwithstanding any other law, the commission shall provide transportation services for clients of eligible programs.

(b) The commission:

(1) may contract with a public transportation provider, as defined by Section 461.002, Transportation Code, a private transportation provider, or a regional transportation broker for the provision of public transportation services, as defined by Section 461.002, Transportation Code, under this section; and

(2) is not required to contract with the Texas Department of Transportation for the provision of transportation services for clients of eligible programs.

(b) Section 461.012(a), Health and Safety Code, is amended to read as follows:

(a) The commission shall:

(1) provide for research and study of the problems of chemical dependency in this state and seek to focus public attention on those problems through public information and education programs;

(2) plan, develop, coordinate, evaluate, and implement constructive methods and programs for the prevention, intervention, treatment, and rehabilitation of chemical dependency in cooperation with federal and state agencies, local governments, organizations, and persons, and provide technical assistance, funds, and consultation services for statewide and community-based services;

(3) cooperate with and enlist the assistance of:

(A) other state, federal, and local agencies;

(B) hospitals and clinics;

(C) public health, welfare, and criminal justice system authorities;

(D) educational and medical agencies and organizations; and

(E) other related public and private groups and persons;

(4) expand chemical dependency services for children when funds are available because of the long-term benefits of those services to the state and its citizens;

(5) sponsor, promote, and conduct educational programs on the prevention and treatment of chemical dependency, and maintain a public information clearinghouse to purchase and provide books, literature, audiovisuals, and other educational material for the programs;

(6) sponsor, promote, and conduct training programs for persons delivering prevention, intervention, treatment, and rehabilitation services and for persons in the criminal justice system or otherwise in a position to identify chemically dependent persons and their families in need of service;

(7) require programs rendering services to chemically dependent persons to safeguard those persons' legal rights of citizenship and maintain the confidentiality of client records as required by state and federal law;

(8) maximize the use of available funds for direct services rather than administrative services;

(9) consistently monitor the expenditure of funds and the provision of services by all grant and contract recipients to assure that the services are effective and properly staffed and meet the standards adopted under this chapter;

(10) make the monitoring reports prepared under Subdivision (9) a matter of public record;

(11) license treatment facilities under Chapter 464;

(12) use funds appropriated to the commission to carry out this chapter and maximize the overall state allotment of federal funds;

(13) develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction;

(14) establish minimum criteria that peer assistance programs must meet to be governed by and entitled to the benefits of a law that authorizes licensing and disciplinary authorities to establish or approve peer assistance programs for impaired professionals;

(15) adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs;

(16) plan, develop, coordinate, evaluate, and implement constructive methods and programs to provide healthy alternatives for youth at risk of selling controlled substances;

(17) submit to the federal government reports and strategies necessary to comply with Section 1926 of the federal Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, Pub. L. 102-321 (42 U.S.C. Section 300x-26); reports and strategies are to be coordinated with appropriate state governmental entities; and

(18) regulate, coordinate, and provide training for alcohol awareness courses required under Section 106.115, Alcoholic Beverage Code, and may charge a fee for an activity performed by the commission under this subdivision[; and

~~and~~ (19) contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs].

(c) Section 461.002, Transportation Code, is amended to read as follows:

Sec. 461.002. DEFINITIONS. In this chapter:

(1) "Public transportation provider" means any entity that provides public transportation services if it is a governmental entity or if it receives funds ~~[financial assistance]~~ from a governmental entity, whether state, local, or federal. The term does not include private carriers that do not receive funds ~~[financial assistance]~~ from a governmental entity. It also does not include a person who

provides intercity rail or bus service, commercial air transportation, water transportation, or nonstop service to or from a point located outside this state, unless, and to the extent to which, the person receives funds from a governmental entity for that service. If a person provides both public transportation services and services that are not public transportation services, that person is included within the term only with regard to the provision of public transportation services and to the extent of those public transportation services.

(2) "Public transportation services" means any conveyance of passengers and their hand-carried baggage by a governmental entity or by a private entity if the private entity receives funds [~~financial assistance~~] for that conveyance from any governmental entity. It does not include intercity rail or bus service, commercial air transportation, water transportation, or nonstop service to or from a point located outside this state, unless, and to the extent to which, the person receives funds from a governmental entity for that service.

(d) Section 461.003(a), Transportation Code, is amended to read as follows:

(a) The commission by rule may:

(1) except as provided by Section 531.0057, Government Code, require a state agency that is responsible for ensuring the provision of public transportation services to contract with the department for the department to assume the responsibilities of that agency relating to the provision of public transportation services; and

(2) require a public transportation provider to provide detailed information on its provision of public transportation services, including revenues, routes, maps, categories of passengers served, number of passengers served, and equipment use and condition.

(e) The following are repealed:

(1) Section 461.012(g), Health and Safety Code;

(2) Section 533.012(b), Health and Safety Code;

(3) Section 22.001(e), Human Resources Code;

(4) Section 40.002(f), Human Resources Code;

(5) Section 91.021(g), Human Resources Code;

(6) Section 101.0256(b), Human Resources Code;

(7) Section 111.0525(d), Human Resources Code; and

(8) Section 455.0015, Transportation Code.

(f) As soon as possible after the effective date of this section, but not later than September 1, 2008, the Texas Department of Transportation shall take all necessary actions to transfer the provision of transportation services for clients of eligible health and human services programs to the Health and Human Services Commission. On the date the transfer occurs:

(1) all powers, duties, functions, activities, rights, obligations, property, records, personnel, and appropriated funds and other money of the department that the department determines are related to the provision of those transportation services are transferred to the Health and Human Services Commission; and

(2) a reference in law to the department with respect to the provision of those transportation services means the Health and Human Services Commission.

(2) In SECTION 2 of the bill (page 5, line 9), strike "(a)".

(3) In the recital to SECTION 2(a) of the bill (page 5, line 10), strike "Sections 531.02413 and 531.02414" and substitute "Section 531.02413".

(4) In SECTION 2(a) of the bill, strike added Section 531.02414, Government Code (page 6, line 26, through page 7, line 21).

(5) In SECTION 2 of the bill, strike Subsections (b), (c), and (d) (page 7, line 22, through page 9, line 7).

Amendment No. 8 was adopted. (The vote was reconsidered later today, and Amendment No. 8 was withdrawn.)

Amendment No. 9

Representative Naishtat offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 32.058, Human Resources Code, is amended to read as follows:

Sec. 32.058. LIMITATION ON MEDICAL ASSISTANCE IN CERTAIN ALTERNATIVE COMMUNITY-BASED CARE SETTINGS. (a) In this section, "medical assistance waiver program" means a program administered by the Department of Aging and Disability Services, other than the Texas home living program, that provides services under a waiver granted in accordance with 42 U.S.C. Section 1396n(c)]:-

~~[(1) "Institution" means a nursing facility or an ICF MR facility.~~

~~[(2) "Medical assistance waiver program" means:~~

~~[(A) the community-based alternatives program;~~

~~[(B) the community living assistance and support services~~

~~program;~~

~~[(C) the deaf blind/multiple disabilities program;~~

~~[(D) the consolidated waiver pilot program; or~~

~~[(E) the medically dependent children program].~~

(b) Except as provided by Subsection (c), ~~or~~ (d), (e), or (f), the department may not provide services under a medical assistance waiver program to a person ~~[receiving medical assistance]~~ if the projected cost of providing those services over a 12-month period exceeds the individual cost limit specified in the medical assistance waiver program.

(c) The department shall continue to provide services under a medical assistance waiver program to a person who was ~~is~~ receiving those services on September 1, 2005, at a cost that exceeded ~~[exceeds]~~ the individual cost limit specified in the medical assistance waiver program, if continuation of those services:

(1) is necessary for the person to live in the most integrated setting appropriate to the needs of the person; and

(2) does not affect the department's compliance with the federal average per capita expenditure requirement ~~[cost-effectiveness and efficiency requirements]~~ of the medical assistance waiver program under 42 U.S.C. Section ~~[Sections 1396n(b) and]~~ 1396n(c)(2)(D).

(d) The department may continue to provide services under a medical assistance waiver program, other than the home and community-based services program, to a person who is ineligible to receive those services under Subsection (b) and to whom Subsection (c) does not apply if:

(1) the projected cost of providing those services to the person under the medical assistance waiver program over a 12-month period does not exceed 133.3 percent of the individual cost limit specified in the medical assistance waiver program; and

(2) continuation of those services does not affect the department's compliance with the federal average per capita expenditure requirement [~~cost-effectiveness and efficiency requirements~~] of the medical assistance waiver program under 42 U.S.C. Section [~~Sections 1396n(b) and~~] 1396n(c)(2)(D).

(e) The department may exempt a person from the cost limit established under Subsection (d)(1) for a medical assistance waiver program if the department determines that:

(1) the person's health and safety cannot be protected by the services provided within the cost limit established for the program under that subdivision; and

(2) there is no available living arrangement, other than one provided through the program or another medical assistance waiver program, in which the person's health and safety can be protected, as evidenced by:

(A) an assessment conducted by clinical staff of the department; and

(B) supporting documentation, including the person's medical and service records.

(f) The department may continue to provide services under the home and community-based services program to a person who is ineligible to receive those services under Subsection (b) and to whom Subsection (c) does not apply if the department makes, with regard to the person's receipt of services under the home and community-based services program, the same determinations required by Subsections (e)(1) and (2) in the same manner provided by Subsection (e) and determines that continuation of those services does not affect:

(1) the department's compliance with the federal average per capita expenditure requirement of the home and community-based services program under 42 U.S.C. Section 1396n(c)(2)(D); and

(2) any cost-effectiveness requirements provided by the General Appropriations Act that limit expenditures for the home and community-based services program.

(g) The executive commissioner of the Health and Human Services Commission may adopt rules to implement Subsections (d), (e), and (f) [~~under which the department may exempt a person from the cost limit established under Subsection (d)(1)~~].

(h) If a federal agency determines that compliance with any provision in this section would make this state ineligible to receive federal funds to administer a program to which this section applies, a state agency may, but is not required to, implement that provision.

(b) The changes in law made by this section apply only to a person receiving medical assistance on or after the effective date of this section, regardless of when eligibility for that assistance was determined.

Amendment No. 9 was adopted.

Amendment No. 10

Representative Raymond offered the following amendment to **CSSB 10**:

Amend **CSSB 10** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS appropriately:

SECTION _____. (a) Section 533.005(a), Government Code, is amended to read as follows:

(a) A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification date;

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal;

(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of inspector general;

(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission;

(12) if the commission finds that a managed care organization has violated Subdivision (11), a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code;

(13) a requirement that the organization use advanced practice nurses in addition to physicians as primary care providers to increase the availability of primary care providers in the organization's provider network;

(14) a requirement that the managed care organization reimburse a federally qualified health center or rural health clinic for health care services provided to a recipient outside of regular business hours, including on a weekend day or holiday, at a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, if the recipient does not have a referral from the recipient's primary care physician; ~~and~~

(15) a requirement that the managed care organization develop, implement, and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require:

(A) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal;

(B) the contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes related to denial on the basis of medical necessity that remain unresolved subsequent to a provider appeal; and

(C) the determination of the physician resolving the dispute to be binding on the managed care organization and provider; and

(16) a requirement that the managed care organization make payment to a federally qualified health center for health care services provided to a recipient at a level and in an amount that is not less than the level and amount of payment that the managed care organization would make for the services if the services were provided by a provider that is not a federally qualified health center.

(b) Section 533.005(a), Government Code, as amended by this section, applies only to a contract between the Health and Human Services Commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act.

Representative J. Davis moved to table Amendment No. 10.

A record vote was requested.

The motion to table prevailed by (Record 1579): 90 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes;

Dutton; Eissler; Elkins; England; Farabee; Farias; Flynn; Gattis; Geren; Giddings; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Hill; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Krusee; Kuempel; Laubenberg; Macias; Madden; McCall; Merritt; Miller; Morrison; Murphy; O'Day; Orr; Otto; Parker; Patrick; Pitts; Quintanilla; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Villarreal; West; Woolley(C); Zedler; Zerwas.

Nays — Allen; Alonzo; Bolton; Burnam; Castro; Chavez; Christian; Coleman; Davis, Y.; Dunnam; Eiland; Escobar; Farrar; Flores; Frost; Gallego; Garcia; Gonzales; Gonzalez Toureilles; Guillen; Heflin; Hernandez; Herrero; Hochberg; Hodge; King, T.; Leibowitz; Lucio; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miles; Moreno; Naishtat; Oliveira; Olivo; Ortiz; Peña; Phillips; Pickett; Pierson; Puente; Raymond; Rodriguez; Thompson; Veasey; Vo.

Present, not voting — Mr. Speaker.

Absent, Excused — Latham; Mowery; Noriega.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Creighton; Goolsby; Harper-Brown; Mallory Caraway; Paxton; Vaught.

STATEMENTS OF VOTE

When Record No. 1579 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 1579 was taken, I was in the house but away from my desk. I would have voted no.

Vaught

Amendment No. 11

Representative Chavez offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (House committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subsection (a), Section 773.004, Health and Safety Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) ~~a ground transfer vehicle and staff used to transport a patient who is under a physician's care between medical facilities or between a medical facility and a private residence, unless it is medically necessary to transport the patient using a stretcher;~~

~~[(2)]~~ air transfer that does not advertise as an ambulance service and that is not licensed by the department;

(2) [~~(3)~~] the use of ground or air transfer vehicles to transport sick or injured persons in a casualty situation that exceeds the basic vehicular capacity or capability of emergency medical services providers in the area;

(3) [~~(4)~~] an industrial ambulance; or

(4) [~~(5)~~] a physician, registered nurse, or other health care practitioner licensed by this state unless the health care practitioner staffs an emergency medical services vehicle regularly.

(b) Section 773.041, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A person may not transport a patient by stretcher in a vehicle unless the person holds a license as an emergency medical services provider issued by the department in accordance with this chapter. For purposes of this subsection, "person" means an individual, corporation, organization, government, governmental subdivision or agency, business, trust, partnership, association, or any other legal entity.

(c) Not later than November 1, 2007, the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement the changes in law made by this section to Chapter 773, Health and Safety Code.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Darby offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.072 to read as follows:

Sec. 32.072. DIRECT ACCESS TO EYE HEALTH CARE SERVICES. (a) Notwithstanding any other law, a recipient of medical assistance is entitled to:

(1) select an ophthalmologist or therapeutic optometrist who is a medical assistance provider to provide eye health care services that are within the scope of:

(A) services provided under the medical assistance program; and

(B) the professional specialty practice for which the ophthalmologist or therapeutic optometrist is licensed and credentialed; and

(2) have direct access to the selected ophthalmologist or therapeutic optometrist for the provision of the services without any requirement to obtain:

(A) a referral from a primary care physician or other gatekeeper or health care coordinator; or

(B) any other prior authorization or precertification.

(b) The department may require an ophthalmologist or therapeutic optometrist selected as provided by this section by a recipient of medical assistance who is otherwise required to have a primary care physician or other

gatekeeper or health care coordinator to forward to the recipient's physician, gatekeeper, or health care coordinator information concerning the eye health care services provided to the recipient.

(c) This section may not be construed to expand the scope of eye health care services provided under the medical assistance program.

(b) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0026 to read as follows:

Sec. 533.0026. DIRECT ACCESS TO EYE HEALTH CARE SERVICES UNDER MEDICAID MANAGED CARE MODEL OR ARRANGEMENT.

Notwithstanding any other law, the commission shall ensure that a managed care plan offered by a managed care organization that contracts with the commission under this chapter and any other Medicaid managed care model or arrangement implemented under this chapter allow a Medicaid recipient who receives services through the plan or other model or arrangement to, in the manner and to the extent required by Section 32.072, Human Resources Code:

(1) select an ophthalmologist or therapeutic optometrist to provide eye health care services; and

(2) have direct access to the selected ophthalmologist or therapeutic optometrist for the provision of the services.

(c) The changes in law made by Section 533.0026, Government Code, as added by this section, apply to a contract between the Health and Human Services Commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this section.

Amendment No. 12 was adopted.

Amendment No. 13

Representative McClendon offered the following amendment to **CSSB 10**:

Amend **CSSB 10** as follows:

(1) In SECTION 5(a) of the bill, at the end of proposed Paragraph (C), Subdivision (1), Subsection (b), Section 531.506, Government Code (page 22, line 13), by striking "and".

(2) In SECTION 5(a) of the bill, at the end of proposed Subdivision (2), Subsection (b), Section 531.506, Government Code (page 22, line 15), between "systems" and the period, insert:

; and

(3) implementing one or more programs to prevent the spread of HIV, hepatitis B, hepatitis C and other infectious and communicable diseases, which may include a disease control program that provides for the anonymous exchange of used hypodermic needles and syringes

Representative Delisi moved to table Amendment No. 13.

The motion to table was withdrawn.

A record vote was requested.

Amendment No. 13 was adopted by (Record 1580): 71 Yeas, 60 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Corte; Crabb; Creighton; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Haggerty; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; King, S.; King, T.; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Miles; Moreno; Naishtat; Oliveira; Olivo; Ortiz; Pierson; Puente; Quintanilla; Rodriguez; Rose; Strama; Straus; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Nays — Anderson; Aycok; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Chisum; Christian; Cook, B.; Cook, R.; Crownover; Darby; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; Kuempel; Laubenberg; Macias; Merritt; Morrison; Murphy; O'Day; Orr; Otto; Parker; Paxton; Pickett; Pitts; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley(C); Zedler.

Present, not voting — Mr. Speaker; Patrick; Zerwas.

Absent, Excused — Latham; Mowery; Noriega.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Callegari; Davis, J.; Delisi; Guillen; Harper-Brown; Krusee; Martinez Fischer; Menendez; Miller; Peña; Phillips; Raymond.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1580. I intended to vote no.

Corte

I was shown voting yes on Record No. 1580. I intended to vote no.

Creighton

When Record No. 1580 was taken, I was in the house but away from my desk. I would have voted no.

J. Davis

When Record No. 1580 was taken, I was in the house but away from my desk. I would have voted no.

Harper-Brown

I was shown voting yes on Record No. 1580. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1580. I intended to vote no.

Homer

I was shown voting yes on Record No. 1580. I intended to vote no.

S. King

I was shown voting yes on Record No. 1580. I intended to vote no.

Madden

When Record No. 1580 was taken, I was in the house but away from my desk. I would have voted no.

Miller

I was shown voting present, not voting on Record No. 1580. I intended to vote no.

Patrick

When Record No. 1580 was taken, my vote failed to register. I would have voted no.

Phillips

Amendment No. 14

Representative Delisi offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. SEVERABILITY. If any provision of this Act is held by a court to be invalid, that invalidity does not affect the other provisions of this Act, and to this end the provisions of this Act are severable.

Amendment No. 14 was adopted.

Amendment No. 15

Representative Naishtat offered the following amendment to **CSSB 10**:

Amend **CSSB 10** by inserting the following sections, appropriately numbered, and renumbering sections of the bill accordingly:

SECTION _____. Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 75 to read as follows:

CHAPTER 75. REGIONAL OR LOCAL HEALTH CARE PROGRAMS FOR
EMPLOYEES OF SMALL EMPLOYERS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 75.001. PURPOSE. The purpose of this chapter is to:

(1) improve the health of employees of small employers and their families by improving the employees' access to health care and by reducing the number of those employees who are uninsured;

(2) reduce the likelihood that those employees and their families will require services from state-funded entitlement programs such as Medicaid;

(3) contribute to economic development by helping small businesses remain competitive with a healthy workforce and health care benefits that will attract employees; and

(4) encourage innovative solutions for providing and funding health care services and benefits.

Sec. 75.002. DEFINITIONS. In this chapter:

(1) "Employee" means an individual employed by an employer. The term includes a partner of a partnership and the proprietor of a sole proprietorship.

(2) "Governing body" means:

(A) the commissioners courts of the counties participating in a regional health care program;

(B) the commissioners court of a county participating in a local health care program; or

(C) the governing body of the joint council, nonprofit entity exempt from federal taxation, or other entity that operates a regional or local health care program.

(3) "Local health care program" means a local health care program operating in one county and established for the benefit of the employees of small employers under Subchapter B.

(4) "Regional health care program" means a regional health care program operating in two or more counties and established for the benefit of the employees of small employers under Subchapter B.

(5) "Small employer" means a person who employed an average of at least two employees but not more than 50 employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.

[Sections 75.003-75.050 reserved for expansion]

SUBCHAPTER B. REGIONAL OR LOCAL HEALTH CARE PROGRAM

Sec. 75.051. ESTABLISHMENT OF PROGRAM; MULTICOUNTY COOPERATION. (a) The commissioners court of a county may, by order, establish or participate in a local health care program under this subchapter.

(b) The commissioners courts of two or more counties may, by joint order, establish or participate in a regional health care program under this subchapter.

Sec. 75.052. GOVERNANCE OF PROGRAM. (a) A regional health care program may be operated subject to the direct governance of the commissioners courts of the participating counties. A local health care program may be operated subject to the direct governance of the commissioners court of the participating county. A regional or local health care program may be operated by a joint council, tax-exempt nonprofit entity, or other entity that:

(1) operates the program under a contract with the commissioners court or courts, as applicable; or

(2) is an entity in which the county or counties participate or that is established or designated by the commissioners court or courts, as applicable, to operate the program.

(b) In selecting an entity described by Subsection (a)(1) or (2) to operate a regional or local health care program, the commissioners court or courts, as applicable, shall require, to the extent possible, that the entity be authorized under federal law to accept donations on a basis that is tax-deductible or otherwise tax-advantaged for the contributor.

Sec. 75.053. OPERATION OF PROGRAM. A regional or local health care program provides health care services or benefits to the employees of participating small employers who are located within the boundaries of the participating county or counties, as applicable. A program may also provide services or benefits to the dependents of those employees.

Sec. 75.054. PARTICIPATION BY SMALL EMPLOYERS; SHARE OF COST. The governing body may establish criteria for participation in a regional or local health care program by small employers, the employees of the small employers, and their dependents. The criteria must require that participating employers and participating employees pay a share of the premium or other cost of the program.

Sec. 75.055. ADDITIONAL FUNDING. (a) A governing body may accept and use a gift, grant, or donation from any source to operate the regional or local health care program and to provide services or benefits under the program.

(a-1) A governing body may apply for and receive a grant under Subchapter D to support a regional or local health care program. This subsection expires September 1, 2009.

(b) A governing body shall actively solicit gifts, grants, and donations to:

(1) fund services and benefits provided under the regional or local health care program; and

(2) reduce the cost of participation in the program for small employers and their employees.

[Sections 75.056-75.100 reserved for expansion]

SUBCHAPTER C. HEALTH CARE SERVICES AND BENEFITS

Sec. 75.101. ALTERNATIVE PROGRAMS AUTHORIZED; PROGRAM OBJECTIVES. In developing a regional or local health care program, a governing body may provide health care services or benefits as described by this subchapter or may develop another type of program to accomplish the purposes of this chapter. A regional or local health care program must be developed, to the extent practicable, to:

(1) reduce the number of individuals without health benefit plan coverage within the boundaries of the participating county or counties;

(2) address rising health care costs and reduce the cost of health care services or health benefit plan coverage for small employers and their employees within the boundaries of the participating county or counties;

(3) promote preventive care and reduce the incidence of preventable health conditions, such as heart disease, cancer, and diabetes and low birth weight in infants;

(4) promote efficient and collaborative delivery of health care services;

(5) serve as a model for the innovative use of health information technology to promote efficient delivery of health care services, reduce health care costs, and improve the health of the community; and

(6) provide fair payment rates for health care providers.

Sec. 75.102. HEALTH BENEFIT PLAN COVERAGE. (a) A regional or local health care program may provide health care benefits to the employees of small employers by purchasing or facilitating the purchase of health benefit plan coverage for those employees from a health benefit plan issuer, including coverage under:

(1) a small employer health benefit plan offered under Chapter 1501, Insurance Code;

(2) a standard health benefit plan offered under Chapter 1507, Insurance Code; or

(3) any other health benefit plan available in this state.

(b) The governing body may form one or more cooperatives under Subchapter B, Chapter 1501, Insurance Code.

(c) Notwithstanding Chapter 1251, Insurance Code, an insurer may issue a group accident and health insurance policy, including a group contract issued by a group hospital service corporation, to cover the employees of small employers participating in a regional or local health care program. The group policyholder of a policy issued in accordance with this subsection is the governing body or the designee of the governing body.

(d) A health maintenance organization may issue a health care plan to cover the employees of small employers participating in a regional or local health care program. The group contract holder of a contract issued in accordance with this subsection is the governing body or the designee of the governing body.

Sec. 75.103. OTHER HEALTH BENEFIT PLANS OR PROGRAMS. To the extent authorized by federal law, the governing body may establish or facilitate the establishment of self-funded health benefit plans or may facilitate the provision of health benefit coverage through health savings accounts and high-deductible health plans.

Sec. 75.104. HEALTH CARE SERVICES. (a) A regional or local health care program may contract with health care providers within the boundaries of the participating county or counties to provide health care services directly to the employees of participating small employers and the dependents of those employees.

(b) A regional or local health care program shall allow any individual who receives state premium assistance to buy into the health benefit plan offered by the regional or local health care program.

(c) A governing body that operates a regional or local health care program under this section may require that participating employees and dependents obtain health care services only from health care providers that contract to provide those services under the program and may limit the health care services provided under the program to services provided within the boundaries of the participating county or counties.

(d) A governing body operating a regional or local health care program operated under this section is not an insurer or health maintenance organization and the program is not subject to regulation by the Texas Department of Insurance.

[Sections 75.105-75.150 reserved for expansion]

SUBCHAPTER D. GRANTS FOR DEMONSTRATION PROJECTS

Sec. 75.151. DEFINITIONS. In this subchapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Executive commissioner" means the executive commissioner of the commission.

Sec. 75.152. GRANT PROGRAM. (a) The executive commissioner may establish a grant program to support the initial establishment and operation of one or more regional or local health care programs as demonstration projects.

(b) In selecting grant recipients, the executive commissioner shall consider the extent to which the regional or local health care program proposed by the applicant accomplishes the purposes of this chapter and meets the objectives established under Section 75.101.

(c) The commission shall establish performance objectives for a grant recipient and shall monitor the performance of the grant recipient.

Sec. 75.153. REVIEW OF DEMONSTRATION PROJECT; REPORT. Not later than December 1, 2008, the commission shall complete a review of each regional or local health care program that receives a grant under this subchapter and shall submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report that includes:

(1) an evaluation of the success of regional and local health care programs in accomplishing the purposes of this chapter; and

(2) the commission's recommendations for any legislation needed to facilitate or improve regional and local health care programs.

Sec. 75.154. EXPIRATION. This subchapter expires September 1, 2009.

SECTION ____. The heading to Subtitle C, Title 2, Health and Safety Code, is amended to read as follows:

SUBTITLE C. PROGRAMS PROVIDING ~~[INDIGENT]~~ HEALTH CARE BENEFITS AND SERVICES

Representative Laubenberg moved to table Amendment No. 15.

A record vote was requested.

The motion to table was lost by (Record 1581): 17 Yeas, 125 Nays, 1 Present, not voting.

Yeas — Anderson; Bohac; Chisum; Christian; Corte; Crabb; Flynn; Gattis; Harless; Harper-Brown; Laubenberg; Macias; Miller; Phillips; Swinford; Van Arsdale; Zedler.

Nays — Allen; Alonzo; Anchia; Aycock; Bailey; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Cook, B.; Cook, R.; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins;

England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Moreno; Morrison; Murphy; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Talton; Taylor; Thompson; Truitt; Turner; Vaught; Veasey; Villarreal; Vo; West; Woolley(C); Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Latham; Mowery; Noriega.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — O'Day; Paxton; Straus.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1581. I intended to vote no.

Bohac

I was shown voting no on Record No. 1581. I intended to vote yes.

Crownover

I was shown voting no on Record No. 1581. I intended to vote yes.

Geren

When Record No. 1581 was taken, I was in the house but away from my desk. I would have voted no.

O'Day

I was shown voting no on Record No. 1581. I intended to vote yes.

Parker

When Record No. 1581 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

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. 5).

CSSB 10 - (consideration continued)

Amendment No. 15 was adopted.

Amendment No. 16

Representative Lucio offered the following amendment to **CSSB 10**:

Amend Section **CSSB 10** by adding the following:

Section _____. The Health & Human Services commission shall study the impact of managed care in areas of the state in which it is not currently being utilized, including those under section 533.0025

The study should include:

- (1) Feasibility;
- (2) Cost comparisons around the state for capitated & non-capitated models of care and;
- (3) Delivering the most cost effective measure of care and;
- (4) Increasing provider rates with additional cost savings.

The Commission shall report their findings to the Governor, Lt. Governor & Speaker of the House by September 1, 2008.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Hopson offered the following amendment to **CSSB 10**:

Amend **CSSB 10** by adding the appropriately numbered section.

SECTION _____. Subchapter A, Chapter 533, Government Code, is amended by adding a new Section 533.0051(e) to read as follows:

Sec. 533.0051(e) The commission shall post the financial statistical report on the commission's web page in a comprehensive and understandable format.

Amendment No. 17 was adopted.

Amendment No. 18

Representative Gattis offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (house committee printing) by adding the following SECTIONS to the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1508 to read as follows:

CHAPTER 1508. HEALTHY TEXAS PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1508.001. PURPOSE. (a) The purposes of the Healthy Texas Program established under this chapter are to:

(1) provide for access to quality small employer health benefit plans at an affordable price; and

(2) maximize reliance on strategies and procedures of managed care proven by the private sector.

(b) The program is not intended to diminish availability of traditional small employer health plan coverage to persons who are eligible for that coverage.

Sec. 1508.002. DEFINITIONS. In this chapter:

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

(2) "Group health benefit plan issuer" means an insurance company, association, organization, group hospital service corporation, or health maintenance organization that delivers or issues for delivery a group insurance

policy or insurance agreement, a group hospital service contract, or a group evidence of coverage that provides health insurance or health care benefits. The term includes:

(A) a life, health, and accident insurance company operating under Chapter 841 or 982;

(B) a fraternal benefit society operating under Chapter 885; and

(C) a stipulated premium company operating under Chapter 884.

(3) "Program" means the Healthy Texas Program.

SUBCHAPTER B. CREATION OF PROGRAM; POWERS AND DUTIES OF COMMISSIONER

Sec. 1508.051. CREATION ON COMMISSIONER DETERMINATION.

(a) If the commissioner by rule determines that, in all or any part of this state, small employer group health benefit plan coverage is not reasonably available to all market segments in the voluntary market, the commissioner may establish the Healthy Texas Program to deliver small employer group health benefit plans under this chapter to market segments identified as underserved.

(b) The program shall be administered by a board of directors and a management company in accordance with this chapter.

(c) The program is subject to the supervision and control of the commissioner.

Sec. 1508.052. GENERAL POWERS OF COMMISSIONER. (a) The commissioner shall provide general supervision for the program.

(b) In exercising authority under this chapter, the commissioner may:

(1) examine the operation of the program, and shall have free access to all the books, records, files, papers, and documents relating to the operation of the program as necessary to conduct an examination under this subdivision;

(2) summon, qualify, and examine as witnesses all persons having knowledge of program operations, including the members of the board, and officers and employees of the board;

(3) take any action necessary to enable this state and the program to fully participate in any federal program which may be enacted for purposes similar to the purposes of this chapter; and

(4) require the program to report to the department concerning risks insured by the program under this chapter, as considered necessary by the commissioner.

(c) The commissioner may review and approve policy forms, endorsements, and riders used by the program.

(d) The commissioner may receive and review rates and any rating methodology established for use by the program.

Sec. 1508.053. RULES. The commissioner may adopt rules as necessary to implement this chapter in the manner prescribed by Subchapter A, Chapter 36.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 1508.101. BOARD OF DIRECTORS. (a) The commissioner of insurance shall appoint the members of the board not later than the 31st day after the effective date of the commissioner rule under Section 1508.051(a) establishing the program. The board is composed of nine members appointed by the commissioner as follows:

(1) four members who are full-time employees of authorized small employer health benefit plan issuers;

(2) three public members who reside in this state; and

(3) two members who are licensed life and health insurance agents.

(b) Members serve staggered six-year terms.

(c) The commissioner or the commissioner's designated representative from the department shall serve as an ex officio member.

Sec. 1508.102. BOARD MEMBER IMMUNITY. (a) A member of the board is not liable for an act performed, or omission made, in good faith in the performance of powers and duties under this chapter.

(b) A cause of action does not arise against a member of the board for an act or omission described by Subsection (a).

Sec. 1508.103. OPEN MEETINGS; PUBLIC INFORMATION. The board is subject to:

(1) the open meetings law, Chapter 551, Government Code; and

(2) the public information law, Chapter 552, Government Code.

SUBCHAPTER D. PROGRAM ADMINISTRATION

Sec. 1508.151. PROGRAM AUTHORITY. (a) The program may exercise any of the authority that a health benefit plan issuer authorized to write health benefit plans in this state may exercise under the laws of this state.

(b) The program shall operate as a health benefit plan issuer, and is subject to the maintenance tax imposed under Chapter 257 as if the program were an insurer.

Sec. 1508.152. PLAN OF OPERATION; COMMISSIONER APPROVAL. (a) The board shall submit to the commissioner a plan of operation and any amendments to that plan necessary or suitable to ensure the fair, reasonable, and equitable administration of the program.

(b) The plan of operation must be approved by the commissioner before inception of any program operations.

(c) The commissioner by rule may approve the plan of operation and any subsequent amendments if the commissioner determines the plan or the plan as amended is suitable to ensure the fair, reasonable, and equitable administration of the program.

(d) The plan of operation is effective on the written approval of the commissioner.

Sec. 1508.153. MANAGEMENT COMPANY. (a) To fully carry out the purposes of the program, the board shall contract with a management company that is qualified to administer, manage, and operate the program. The management company must hold a certificate of authority as an administrator under Chapter 4151.

(b) The management company must be approved by the commissioner.

Sec. 1508.154. FILING OF RATES. The board shall file with the commissioner the proposed rates and rate information to be used by the program in connection with the issuance of policies, riders, or endorsements. Rates must be set in amounts sufficient to carry all claims to maturity and to meet all expenses incurred in the writing and servicing of the business.

Sec. 1508.155. AUDIT. (a) The board shall by contract secure the services of an independent auditor, who shall annually audit:

(1) the operations and transactions of the program; and

(2) the manner in which the management company is performing the company's duties.

(b) The independent auditor shall deliver to the board a report of the results of the audit conducted under this section.

Sec. 1508.156. ANNUAL REPORT. (a) The board shall compile a calendar year annual operating report regarding the program, and shall submit the report to the commissioner not later than March 31 of the following calendar year.

(b) The annual report must be accompanied by a copy of the auditor's report under Section 1508.155(b).

Sec. 1508.157. PROGRAM COVERAGE; ELIGIBILITY. (a) A small employer health benefit plan offered through the program must provide coverage consistent with that offered under a small employer health benefit plan subject to Subchapter F, Chapter 1501.

(b) An applicant for coverage from the program is eligible for the coverage if the applicant has:

(1) not been covered by a health benefit plan during the 12-month period preceding the date of the application; or

(2) has lost health benefit plan coverage due to a qualifying event.

(c) The commissioner by rule shall establish employer contribution and employee participation requirements applicable to coverage under the program, as well as other participation criteria applicable to small employer participation.

Sec. 1508.158. CONTRACTS. The board may, subject to commissioner approval, enter into contracts as necessary or proper to implement this chapter.

SUBCHAPTER E. PROGRAM DISSOLUTION

Sec. 1508.201. DEFINITION. In this subchapter, "plan" means the plan of dissolution and termination of the program required by this subchapter.

Sec. 1508.202. PLAN OF DISSOLUTION. (a) The board, at the direction of the commissioner and not later than the seventh anniversary of the date on which the program is established, shall develop and submit to the commissioner a plan for dissolution of the program and termination of program operations in accordance with this subchapter.

(b) The plan must:

(1) ensure the fair, reasonable, and equitable winding down and dissolution of the program and termination of program operations; and

(2) provide for the sharing of any remaining program assets on a proportionate basis in accordance with this subchapter.

Sec. 1508.203. APPROVAL OF PLAN BY COMMISSIONER; COMMISSIONER ACTION IF PLAN NOT APPROVED. (a) The commissioner may approve the plan if the commissioner determines the plan meets the requirements of Sections 1508.202 and 1508.204. The plan is effective on the written approval of the commissioner.

(b) If the board fails to submit a plan the commissioner can approve, the commissioner, after notice and hearing, shall adopt a plan by rule.

Sec. 1508.204. PLAN REQUIREMENTS. (a) The plan must:

(1) specify the date after which a person covered by a small employer health benefit plan issued by the program and effective on the date of the plan of dissolution may not submit additional claims;

(2) provide for:

(A) the filing, receipt, processing, and payment of all claims against the program, and all debts of the program, and the extinguishment of all liabilities of the program, including balances on any lines of credit that may have been established by or on behalf of the program, and including any credit for or refund of any overpayment;

(B) the collection and receipt of all outstanding amounts owed to the program;

(C) a final audit of the program by the state auditor, as provided by Section 1508.205; and

(D) the distribution of any surplus assets of the program that remain after the closing date, in a manner that shares the remaining program assets on a proportionate basis and in accordance with this section; and

(3) specify, as the closing date, the effective date of the closing of the transactions required by the plan and addressed in this section.

(b) The closing date may not be earlier than the third anniversary, or later than the seventh anniversary, of the effective date of the plan.

Sec. 1508.205. AUDIT. The transactions necessary to complete execution of the plan are subject to audit by the state auditor under Chapter 321, Government Code. The state auditor shall report the cost of the final audit conducted under this section to the board and the comptroller, and the board shall remit that amount to the comptroller for deposit to the general revenue fund.

Sec. 1508.206. OPERATION OF PROGRAM AFTER CLOSING DATE. (a) The program shall continue the program's existence until the third anniversary of the closing date established by the plan, solely for the purpose of prosecuting or defending in the program's name any action or proceeding by or against the program.

(b) During the three-year period established by Subsection (a), the board members serving at the time of dissolution shall continue to manage the affairs of the program for the sole purpose stated by that subsection, and have the powers and immunities necessary to accomplish that sole purpose, in accordance with Section 1508.102.

(c) If, during the three-year period established by Subsection (a), a board member fails to serve, the commissioner shall appoint a replacement member in accordance with Section 1508.101.

SUBCHAPTER F. REVENUE BOND PROGRAM AND PROCEDURES

Sec. 1508.251. LEGISLATIVE FINDING. The legislature finds that the issuance of bonds for the purpose of providing a method to raise funds to provide small employer health benefit plans through the Healthy Texas Program for employers in this state is for the benefit of the public and in furtherance of a public purpose.

Sec. 1508.252. DEFINITION. In this subchapter, "bond resolution" means the resolution or order authorizing bonds to be issued under this subchapter.

Sec. 1508.253. APPLICABILITY OF OTHER LAWS. (a) The following laws apply to bonds issued under this subchapter to the extent consistent with this subchapter:

- (1) Chapters 1201 through 1202, Government Code;
- (2) Chapters 1205 through 1207, Government Code;
- (3) Chapters 1231 through 1232, Government Code; and
- (4) Chapter 1371, Government Code.

(b) In the event of a conflict between this subchapter and a law listed in Subsection (a), this subchapter controls.

Sec. 1508.254. ISSUANCE OF BONDS AUTHORIZED. On behalf of the program, the Texas Public Finance Authority shall issue revenue bonds to:

- (1) establish the initial surplus of the program;
- (2) establish and maintain reserves;
- (3) pay initial operating costs;
- (4) pay costs related to issuance of the bonds; and
- (5) pay other costs related to the bonds as may be determined by the

board.

Sec. 1508.255. BOND LIMITS. The Texas Public Finance Authority may issue, on behalf of the program, bonds in a total amount not to exceed \$200 million.

Sec. 1508.256. TERMS OF ISSUANCE; BOND CONDITIONS. (a) Bonds may be issued at public or private sale.

(b) Bonds may mature not later than the 20th anniversary of the date of issuance.

(c) Bonds must be issued in the name of the program.

Sec. 1508.257. ADDITIONAL COVENANTS. In a bond resolution, the board may make additional covenants with respect to the bonds and the designated income and receipts of the program pledged to payment of the bonds, and may provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the bonds.

Sec. 1508.258. SPECIAL ACCOUNTS. (a) A bond resolution may establish special accounts, including an interest and sinking fund account, reserve account, and other accounts.

(b) The chief financial officer of the program or the officer's designee shall administer the accounts in accordance with this code.

Sec. 1508.259. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

(a) Bonds are payable only from:

(1) the maintenance tax surcharge established under Section 1508.260;
or

(2) any other amounts the program is authorized to levy, charge, or collect in connection with paying any portion of the bonds.

(b) Bonds are obligations solely of the program. Bonds do not create a pledging, giving, or lending of the faith, credit, or taxing authority of this state.

(c) Each bond must include a statement that the state is not obligated to pay any amount on the bond and that the faith, credit, and taxing authority of this state are not pledged, given, or lent to those payments.

(d) Each bond issued under this subchapter must state on its face that the bond is payable solely from the revenues pledged for that purpose and that the bond does not and may not constitute a legal or moral obligation of the state.

Sec. 1508.260. MAINTENANCE TAX SURCHARGE. (a) A maintenance tax surcharge is assessed against:

(1) the program; and

(2) subject to Subsection (d), each group health benefit plan issuer in this state that issues a group health benefit plan to an employer to provide health insurance or health care benefits.

(b) The maintenance tax surcharge under Subsection (a)(1) shall be set in an amount sufficient to pay all debt service on the bonds. The maintenance tax surcharge shall be set by the commissioner at the same time and shall be collected by the comptroller on behalf of the program in the same manner as provided under Chapter 257 for the collection of the maintenance tax assessed under that chapter.

(c) To establish the surcharge under Subsection (b), the commissioner shall increase the maintenance tax rate to which the program is subject to a rate sufficient to pay all debt service on the bonds, subject to the maximum tax rate established by Chapter 257. If the resulting tax rate is insufficient to pay all costs for the program under this subchapter and all debt service on the bonds, the commissioner may assess an additional surcharge to the program, not to exceed one percent of the program's gross small employer group health benefit plan premiums, as necessary to cover all debt service on the bonds. In this subsection, the maintenance tax surcharge includes the additional maintenance tax assessed under this subsection and the additional surcharge assessed under this subsection to pay all debt service of the bonds.

(d) If the assessment procedure established under Subsection (c) is insufficient to cover all debt service on the bonds, and subject to the operating procedure provisions in the program plan of operation, the commissioner may assess group health benefit plan issuers described by Subsection (a)(2) a surcharge, not to exceed one percent of the gross group health benefit plan premiums, exclusive of small employer group health benefit plan premiums, to cover all debt service on the bonds. For purposes of this subsection, the maintenance tax surcharge includes the surcharge assessed under this subsection to pay all debt service of the bonds.

(e) The program and a group health benefit plan issuer, respectively, may pass through the maintenance tax surcharge established under Subsections (c) and (d) to the policyholders of the program and those issuers.

Sec. 1508.261. EXEMPTION FROM TAXATION. The bonds issued under this subchapter, any interest from the bonds, and all assets pledged to secure the payment of the bonds are free from taxation by this state or a political subdivision of this state.

Sec. 1508.262. AUTHORIZED INVESTMENTS. Bonds issued under this subchapter constitute authorized investments under Subchapter D, Chapter 425.

Sec. 1508.263. STATE NOT TO IMPAIR BOND OBLIGATIONS; PLEDGE. (a) The state pledges to and agrees with the owners of any bonds issued in accordance with this subchapter that the state will not limit or alter the rights vested in the program to fulfill the terms of any agreements made with the owners of the bonds or in any way impair the rights and remedies of those owners until the bonds, any premium or interest, and all costs and expenses in connection with any action or proceeding by or on behalf of those owners are fully met and discharged.

(b) The program may include the pledge and agreement of the state in any agreement with the owners of the bonds.

Sec. 1508.264. ENFORCEMENT BY MANDAMUS. A writ of mandamus and all other legal and equitable remedies are available to any party at interest to require the program and any other party to carry out agreements and to perform functions and duties under this subchapter, the Texas Constitution, or a bond resolution.

SECTION ____. (a) Not later than November 1, 2008, the commissioner of insurance shall provide an interim progress report to the lieutenant governor, the speaker of the house of representatives, and the members of the 81st Legislature regarding the operation of the Healthy Texas Program established under Chapter 1508, Insurance Code, as added by this Act. The report must include information regarding:

(1) the potential economic impact that the program would have on the small employer insurance market in this state;

(2) the anticipated impact that the program would have on the quality of health care provided in this state;

(3) the progress of any proposed or adopted rules addressing the program;

(4) the progress of a draft or approved plan of operation for the program; and

(5) the efficacy and feasibility of expanding the program to include application to governmental entities.

(b) A health benefit plan may not be issued by the Healthy Texas Program established under Chapter 1508, Insurance Code, as added by this Act, before January 1, 2010.

Amendment No. 18 was adopted.

Amendment No. 19

Representative Branch offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (House Committee Printing) in SECTION 5(a) of the bill by striking added Section 531.504(a)(1), Government Code (page 20, lines 11 through 18), and substituting the following:

(1) all federal money provided to this state under the disproportionate share hospitals supplemental payment program and the hospital upper payment limit supplemental payment program, other than money provided under those programs to state-owned and operated hospitals, and all other non-supplemental payment program federal money provided to this state that is included in the waiver authorized by Section 531.502; and

Amendment No. 19 was adopted.

Amendment No. 20

Representative Coleman offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.02471 to read as follows:

Sec. 32.02471. MEDICAL ASSISTANCE FOR CERTAIN FORMER FOSTER CARE ADOLESCENTS ENROLLED IN HIGHER EDUCATION.

(a) In this section, "independent foster care adolescent" has the meaning assigned by Section 32.0247.

(b) The department shall provide medical assistance to a person who:

(1) is 21 years of age or older but younger than 25 years of age;

(2) would be eligible to receive assistance as an independent foster care adolescent under Section 32.0247 if the person were younger than 21 years of age; and

(3) is enrolled in an institution of higher education, as defined by Section 61.003(8), Education Code, or a private or independent institution of higher education, as defined by Section 61.003(15), Education Code, that is located in this state and is making satisfactory academic progress as determined by the institution.

Amendment No. 20 was adopted.

Amendment No. 21

Representative Coleman offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (house committee printing) as follows:

(1) In SECTION 15 of the bill, strike Subsection (b) of that SECTION (page 52, lines 2 through 7), and substitute:

(b) The committee on health and long-term care insurance incentives is established to study and develop recommendations regarding methods by which this state may reduce:

(1) the need for residents of this state to rely on the Medicaid program by providing incentives for employers to provide health insurance, long-term care insurance, or both, to their employees; and

(2) the number of individuals in the state who are not covered by health insurance or long-term care insurance.

(2) In SECTION 15 of the bill, following Subsection (e) of that SECTION (page 54, between lines 3 and 4), insert:

(e-1) The committee shall study and develop recommendations regarding:

(1) the cost of health care coverage under health benefit plans and how to reduce the cost of coverage through the following or other methods:

(A) changes in health benefit plan design or scope of services covered;

(B) improvements in disease management and other utilization review practices by health care providers and health benefit plans;

(C) reductions in administrative costs incurred by health care providers and health benefit plans;

(D) improvements in the use of health care information technology by health care providers and health benefit plans; and

(E) development of a reinsurance system for health care claims in excess of \$50,000; and

(2) the availability of health care coverage under health benefit plans and how to expand health care coverage through the following or other methods:

(A) the providing of premium subsidies for health benefit plan coverage by the state or local political subdivisions, including three-share or multiple-share programs;

(B) the inclusion of individuals or employees of private employers under state or local political subdivision health benefit plans, including the Texas Health Insurance Risk Pool;

(C) inclusion of family members and dependents under a group health benefit plan regardless of age; and

(D) requiring vendors of state and local political subdivisions to provide health benefit plan coverage for their employees and the employee's family and dependents.

Amendment No. 21 was adopted.

Amendment No. 22

Representatives Isett and Deshotel offered the following amendment to **CSSB 10**:

Amend **CSSB 10** as follows:

(1) On page 7, line 22, to page 8, line 1, of SECTION 2 of the committee substitute, strike Subsection (b) of SECTION 2 and substitute Subsection (b) as follows:

(b) Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0057 to read as follows:

(b) Sec. 531.0057. MEDICAL TRANSPORTATION SERVICES. (a) The Health and Human Services Commission shall provide medical transportation services for clients of eligible health and human services programs.

(c) The commission may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.

(2) On page 8, line 2, to page 9, line 7, of SECTION 2 of the committee substitute strike Subsections (c) and (d) of SECTION 2.

(3) On page 58, line 21, of the committee substitute, insert SECTION 19 as follows and renumber the subsequent sections appropriately:

SECTION 19. (a) Subject to the appropriation of funds for these purposes and subsection (c) of this section, all powers, duties, functions, activities, obligations, rights, contracts, records, assets, personal property, personnel, appropriations or other money of the Texas Department of Transportation that are essential to the administration of the medical transportation program, as specified in Section 531.0057, Government Code, are transferred by this Act are transferred to the Health and Human Services Commission.

(b) A reference in law or an administrative rule to the Texas Department of Transportation that relates to the medical transportation program means the Health and Human Services Commission.

(c) The Texas Department of Transportation shall take all action necessary to provide for the transfer of its contractual obligations to administer the medical transportation program, as specified in Section 531.0057, Government Code, to the commission as soon as possible after the effective date of this section but not later than September 1, 2008.

(d) The following sections remain in effect until September 1, 2008, for the limited purpose of effecting the transfer of the medical transportation program, as specified in Section 531.0057, Government Code. The following sections are repealed, effective September 1, 2008:

- (1) Section 531.02412(b), Government Code;
- (2) Section 461.012(a)(19), Health and Safety Code;
- (3) Section 461.012(g), Health and Safety Code;
- (4) Section 533.012(b), Health and Safety Code;
- (5) Section 22.001(e), Human Resources Code;
- (6) Section 40.002(f), Human Resources Code;
- (7) Section 91.021(g), Human Resources Code;
- (8) Section 101.0256(b), Human Resources Code;
- (9) Section 111.0525(d), Human Resources Code;
- (10) Section 301.063(f), Labor Code;
- (11) Section 455.0015, Transportation Code; and,
- (12) Section 461.003, Transportation Code.

Amendment No. 22 was withdrawn.

Amendment No. 23

Representative Lucio offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 531.02444, Government Code, is amended to read as follows:

Sec. 531.02444. MEDICAID BUY-IN PROGRAMS ~~[PROGRAM]~~ FOR CERTAIN PERSONS WITH DISABILITIES. (a) The executive commissioner shall develop and implement:

(1) a Medicaid buy-in program for persons with disabilities as authorized by the Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. No. 106-170) or the Balanced Budget Act of 1997 (Pub. L. No. 105-33); and

(2) subject to availability of existing funds for this purpose, a Medicaid buy-in program for disabled children described by 42 U.S.C. Section 1396a(cc)(1) whose family incomes do not exceed 300 percent of the applicable federal poverty level, as authorized by the Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

(b) The executive commissioner shall adopt rules in accordance with federal law that provide for:

(1) eligibility requirements for each [the] program developed under Subsection (a); and

(2) requirements for participants in the program to pay premiums or cost-sharing payments, subject to Subsection (c).

(c) Rules adopted by the executive commissioner under Subsection (b) with respect to the program for disabled children developed under Subsection (a)(2) must require a participant to pay monthly premiums according to a sliding scale that is based on family income, subject to the requirements of 42 U.S.C. Sections 1396o(i)(2) and (3).

(b) Not later than December 1, 2007, the executive commissioner of the Health and Human Services Commission shall, subject to availability of funds, develop and implement the Medicaid buy-in program for disabled children under Section 531.02444, Government Code, as amended by this section.

Representative J. Davis moved to table Amendment No. 23.

A record vote was requested.

The motion to table prevailed by (Record 1582): 77 Yeas, 65 Nays, 2 Present, not voting.

Yeas — Anderson; Aycok; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Christian; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hill; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Krusee; Kuempel; Laubenberg; Macias; Madden; McCall; Merritt; Miller; Morrison; O'Day; Orr; Otto; Parker;

Patrick; Phillips; Pitts; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley(C); Zedler; Zerwas.

Nays — Alonzo; Anchia; Bailey; Bolton; Castro; Chavez; Cohen; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farias; Farrar; Flores; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miles; Moreno; Murphy; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Puente; Quintanilla; Raymond; Rodriguez; Rose; Strama; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker; Harless.

Absent, Excused — Latham; Mowery; Noriega.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Allen; Paxton.

STATEMENT OF VOTE

When Record No. 1582 was taken, my vote failed to register. I would have voted no.

Allen

Amendment No. 8 - Vote Reconsidered

Representative Deshotel moved to reconsider the vote by which Amendment No. 8 was adopted.

The motion to reconsider prevailed.

Amendment No. 8 was withdrawn.

Amendment No. 24

Representative Isett offered the following amendment to **CSSB 10**:

Amend **CSSB 10** as follows:

(1) On page 7, line 22, to page 8, line 1, of SECTION 2 of the committee substitute, strike Subsection (b) of SECTION 2 and substitute Subsection (b) as follows:

(b) Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0057 to read as follows:

(b) Sec. 531.0057. MEDICAL TRANSPORTATION SERVICES. (a) The Health and Human Services Commission shall provide medical transportation services for clients of eligible health and human services programs.

(c) The commission may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.

(2) On page 8, line 2, to page 9, line 7, of SECTION 2 of the committee substitute strike Subsections (c) and (d) of SECTION 2.

(3) On page 58, line 21, of the committee substitute, insert SECTION 19 as follows and renumber the subsequent sections appropriately:

SECTION 19. (a) Subject to the appropriation of funds for these purposes and subsection (c) of this section, all powers, duties, functions, activities, obligations, rights, contracts, records, assets, personal property, personnel, appropriations or other money of the Texas Department of Transportation that are essential to the administration of the medical transportation program, as specified in Section 531.0057, Government Code, are transferred by this Act are transferred to the Health and Human Services Commission.

(b) A reference in law or an administrative rule to the Texas Department of Transportation that relates to the medical transportation program means the Health and Human Services Commission.

(c) The Texas Department of Transportation shall take all action necessary to provide for the transfer of its contractual obligations to administer the medical transportation program, as specified in Section 531.0057, Government Code, to the commission as soon as possible after the effective date of this section but not later than September 1, 2008.

(d) The following sections remain in effect until September 1, 2008, for the limited purpose of effecting the transfer of the medical transportation program, as specified in Section 531.0057, Government Code. The following sections are repealed, effective September 1, 2008:

- (1) Section 531.02412(b), Government Code;
- (2) Section 461.012(a)(19), Health and Safety Code;
- (3) Section 461.012(g), Health and Safety Code;
- (4) Section 533.012(b), Health and Safety Code;
- (5) Section 22.001(e), Human Resources Code;
- (6) Section 40.002(f), Human Resources Code;
- (7) Section 91.021(g), Human Resources Code;
- (8) Section 101.0256(b), Human Resources Code;
- (9) Section 111.0525(d), Human Resources Code;
- (10) Section 301.063(f), Labor Code;
- (11) Section 455.0015, Transportation Code; and,
- (12) Section 461.003, Transportation Code.

Amendment No. 24 was adopted.

Amendment No. 25

Representative Miles offered the following amendment to **CSSB 10**:

Amend **CSSB 10** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Chapter 85, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. HIV PREVENTION MEDIA CAMPAIGN

Sec. 85.161. GRANTS FOR MEDIA CAMPAIGN. In operating medical assistance program the Health and Human Services Commission, out of funds appropriated by the legislature, shall award grants in an amount equal to at least

one million ~~one percent of the total funds~~ appropriated to the ~~department~~ commission for acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) related programs to local contractors to implement a highly visible media campaign encouraging individuals, as part of a routine physical examination given under a medical assistance program, to undergo a medical procedure or test designed to show whether the individual has acquired immune deficiency syndrome or human immunodeficiency virus. For the purposes of this section, a highly visible media campaign includes the use of billboards, newspaper and magazine advertisements, and signs on commercial motor vehicles and motor vehicles used for public transportation.

Amendment No. 25 was adopted.

CSSB 10, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown, Laubenberg, Phillips, and Zedler recorded voting no.)

POSTPONED BUSINESS

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

CSSB 785 ON SECOND READING (Morrison - House Sponsor)

CSSB 785, A bill to be entitled An Act relating to information related to the performance of an abortion; creating an offense.

CSSB 785 was read second time earlier today and was postponed until this time.

Representative Morrison moved to postpone consideration of **CSSB 785** until after the second reading of **SB 6**.

The motion prevailed.

MAJOR STATE CALENDAR (consideration continued)

SB 6 ON SECOND READING (Peña - House Sponsor)

SB 6, A bill to be entitled An Act relating to the apprehension, prosecution, and punishment of individuals committing or attempting to commit certain sex offenses.

Amendment No. 1

Representative Laubenberg offered the following amendment to **SB 6**:

Amend **SB 6** (House Committee Printing) as follows:

(1) In SECTION 1 of the bill, strike added Subdivision (2), Article 24A.001, Code of Criminal Procedure (page 1, lines 17-18), and substitute the following:

(2) is served on or issued with respect to an Internet service provider, electronic communications service provider, or remote computing service provider that provides service in this state or to any person or entity located in this state.

(2) In SECTION 1 of the bill, in added Subchapter A, Chapter 24A, Code of Criminal Procedure (page 1, between lines 18 and 19), between added Articles 24A.001 and 24A.002, insert the following:

Art. 24A.002. DEFINITIONS. In this chapter:

(1) "Electronic communications service provider" means a company or other entity that provides to users of the company's or entity's service the ability to send and receive wire or electronic communications.

(2) "Internet service provider" means a company or other entity that provides Internet connectivity to the company's or entity's customers.

(3) "Remote computing service provider" means a company or other entity that provides computer storage or processing services to the public by means of an electronic communications system.

(3) In SECTION 1 of the bill, in added Article 24A.002, Code of Criminal Procedure (page 1, line 19), strike "Art. 24A.002" and substitute "Art. 24A.003".

(4) In SECTION 1 of the bill, in added Subsection (a), Article 24A.002, Code of Criminal Procedure (page 1, line 21), strike "Internet service provider" and substitute "Internet service provider, electronic communications service provider, or remote computing service provider".

(5) In SECTION 1 of the bill, in added Subsection (a), Article 24A.002, Code of Criminal Procedure (page 1, line 23), strike "Internet service".

(6) In SECTION 1 of the bill, in added Subdivision (2), Subsection (a), Article 24A.002, Code of Criminal Procedure (page 2, line 3), strike "Internet service".

(7) In SECTION 1 of the bill, in added Subsection (b), Article 24A.002, Code of Criminal Procedure (page 2, line 6), strike "Internet service provider" and substitute "Internet service provider, electronic communications service provider, or remote computing service provider".

(8) In SECTION 1 of the bill, in added Subsection (b), Article 24A.002, Code of Criminal Procedure (page 2, lines 8-9), strike "Internet service".

(9) In SECTION 1 of the bill, in added Article 24A.003, Code of Criminal Procedure (page 2, line 21), strike "Art. 24A.003" and substitute "Art. 24A.004".

(10) In SECTION 1 of the bill, in added Article 24A.003, Code of Criminal Procedure (page 2, line 22), strike "Internet service provider" and substitute "Internet service provider, electronic communications service provider, or remote computing service provider".

(11) In SECTION 1 of the bill, in added Article 24A.003, Code of Criminal Procedure (page 2, line 25), strike "Article 24A.002(a)(2)" and substitute "Article 24A.003(a)(2)".

(12) In the expansion clause, on page 2, line 27, strike "Articles 24A.004" and substitute "Articles 24A.005".

(13) In SECTION 1 of the bill, in added Subsection (a), Article 24A.051, Code of Criminal Procedure (page 3, lines 5-6), strike "Internet service provider that provides service in this state" and substitute "Internet service provider, electronic communications service provider, or remote computing service provider".

(14) In SECTION 1 of the bill, in added Subsection (a), Article 24A.051, Code of Criminal Procedure (page 3, line 8), strike "Internet service".

(15) In SECTION 1 of the bill, in added Subsection (b), Article 24A.051, Code of Criminal Procedure (page 3, line 10), strike "an Internet service" and substitute "a".

(16) In SECTION 1 of the bill, in added Subsection (b), Article 24A.051, Code of Criminal Procedure (page 3, line 12), strike "Internet service".

(17) In SECTION 1 of the bill, in added Subsection (c), Article 24A.051, Code of Criminal Procedure (page 3, line 14), strike "An Internet service" and substitute "A".

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

SECTION _____. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.532 to read as follows:

Sec. 35.532. DISCLOSURE OF CERTAIN SEX OFFENDER SCREENINGS REQUIRED. (a) In this section, "Internet dating service" means a service that is provided over the Internet and is designed to arrange or facilitate the social introduction of two or more persons for the purpose of promoting the meeting of compatible individuals. The term includes compatibility evaluations.

(b) A provider of Internet dating services shall disclose to users of the services who have Texas addresses or zip codes whether the provider, using a database with substantial national coverage of felony convictions and of offenses for which a person is required to register as a sex offender under the laws of this or any other state, screens users of the Internet dating services. If a provider of Internet dating services screens users of the Internet dating services in a manner described by this subsection, the provider must include a description of any limitations of the screening tool used by the provider.

(c) A provider of Internet dating services:

(1) shall include the disclosure required by Subsection (b) in a clear and conspicuous manner in all communications the provider has with all users of the provider's services; and

(2) must provide the disclosure required by Subsection (b) to users of the services who have Texas addresses or zip codes before allowing those users to communicate with other users of the services.

(d) Failure to provide the disclosure required by this section in the manner and at the time required by this section is a deceptive trade practice under Subchapter E, Chapter 17.

(e) The attorney general may adopt rules as necessary to implement and enforce this section.

Amendment No. 1 - Point of Order

Representative Gallego raised a point of order against further consideration of Amendment No. 1 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The chair sustained the point of order.

The ruling precluded further consideration of Amendment No. 1.

SB 6 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Riddle recorded voting no.)

**CSSB 8 ON SECOND READING
(Flynn - House Sponsor)**

CSSB 8, A bill to be entitled An Act relating to random testing of certain public school students for steroid use.

CSSB 8 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Aycock and Phillips recorded voting no.)

(Mowery now present)

RESOLUTIONS ADOPTED

Representative Murphy moved to suspend all necessary rules in order to take up and consider at this time **HCR 264, HR 1968, HR 1970, HR 2132, HR 2214, HR 2246, HR 2382 - HR 2386, HR 2403, HR 2406, and HR 2438.**

The motion prevailed.

The following resolutions were laid before the house:

HCR 264 (by Isett), Recognizing Laura Lynn Lewis of Lubbock on her achievements as an artist.

HR 1968 (by Callegari), Commemorating the ribbon-cutting ceremony for the completion of the first phase of the renovation of the Katy Police Department's police station.

HR 1970 (by Callegari), Congratulating the Katy Police Department on the success of its Canine Program teams at the National Narcotic Detector Dog Association Training Conference and Competition.

HR 2132 (by Taylor), Commemorating the 10th anniversary of the establishment of The Arts Alliance Center at Clear Lake.

HR 2214 (by Gonzalez Tourelles), Commending Rodney Swaim on the occasion of his retirement from the McMullen County Commissioners Court.

HR 2246 (by Hilderbran), Honoring Chief Alex Kvapil on his retirement after 45 years of service with the Ballinger Volunteer Fire Department.

HR 2382 (by Alonzo), Commending Claudia Hernandez for her service as a legislative intern in the office of State Representative Roberto Alonzo.

HR 2383 (by Alonzo), Commending Miguel Angel Cervantes, Jr., for his service as a legislative intern in the office of State Representative Roberto Alonzo.

HR 2384 (by Alonzo), Commending Melissa De La Cruz for her service as a legislative intern in the office of State Representative Roberto Alonzo.

HR 2385 (by Alonzo), Commending Connie J. Loh on her service as a legislative intern in the office of State Representative Roberto Alonzo.

HR 2386 (by Alonzo), Commending Araceli Garcia for her service as a legislative aide in the office of State Representative Roberto Alonzo.

HR 2403 (by Strama), Congratulating D. L. "Dally" Willis on the occasion of his 87th birthday.

HR 2406 (by Gonzalez Toureilles), Recognizing May 21, 2007, as McMullen County Day at the State Capitol.

HR 2438 (by Turner), Honoring participants in the Houston chapter of 100 Black Men of America.

The resolutions were adopted.

HR 2174 - ADOPTED
(by Taylor, et al.)

Representative Murphy moved to suspend all necessary rules to take up and consider at this time **HR 2174**.

The motion prevailed.

The following resolution was laid before the house:

HR 2174, In memory of U.S. Army Private First Class Joseph Graham Harris of Sugar Land.

HR 2174 was unanimously adopted by a rising vote.

HR 2423 - ADOPTED
(by Pickett)

Representative Murphy moved to suspend all necessary rules to take up and consider at this time **HR 2423**.

The motion prevailed.

The following resolution was laid before the house:

HR 2423, In memory of U.S. Army Sergeant Lorenzo Ponce Ruiz of El Paso.

HR 2423 was unanimously adopted by a rising vote.

POSTPONED BUSINESS

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

CSSB 785 ON SECOND READING
(Morrison - House Sponsor)

CSSB 785, A bill to be entitled An Act relating to information related to the performance of an abortion; creating an offense.

CSSB 785 was read second time earlier today and was postponed until this time.

Representative Morrison moved to postpone consideration of **CSSB 785** until 6:30 p.m. today.

The motion prevailed.

MAJOR STATE CALENDAR
(consideration continued)

(W. Smith in the chair)

CSSB 758 ON SECOND READING
(Rose, J. Davis, S. King, Naishtat, and Pierson - House Sponsors)

CSSB 758, A bill to be entitled An Act relating to child protective services.

Amendment No. 1

Representative Rose offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (house committee printing) in SECTION 26 of the bill, in added Subdivision (1), Subsection (e), Section 42.0221, Human Resources Code (page 24, line 25), between "care" and the semicolon, insert ", including reports and findings of child fatality review teams under Subchapter F, Chapter 264, Family Code".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Rose offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (house committee printing) as follows:

(1) In SECTION 18 of the bill, in added Subsection (a), Section 266.0031, Family Code (page 18, line 7), strike "nine" and substitute "10".

(2) In SECTION 18 of the bill, in added Subsection (a), Section 266.0031, Family Code (page 18, line 18), strike "and".

(3) In SECTION 18 of the bill, in added Subdivision (7), Subsection (a), Section 266.0031, Family Code (page 18, line 19), between "hospital" and the period, insert the following:

; and

(8) a representative of a medical school, as defined by Section 61.501, Education Code, with expertise in forensic consultation

Amendment No. 2 was adopted.

Amendment No. 3

Representatives Rose, Parker, and Pierson offered the following amendment to **CSSB 758**:

Amend **CSSB 758** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.0325 to read as follows:

Sec. 40.0325. RECRUITMENT OF CASEWORKERS. When recruiting child protective services caseworkers, the department shall target its recruitment efforts toward individuals who hold a bachelor's degree or advanced degree in at least one of the following academic areas:

- (1) social work;
- (2) counseling;
- (3) early childhood education;
- (4) psychology;
- (5) criminal justice;
- (6) elementary or secondary education;
- (7) sociology; or
- (8) human services.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Rose offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (house committee printing), in SECTION 37 of the bill, in amended Subsection (c), Section 45.054, Human Resources Code (page 33, line 2), by striking "second [~~first~~]" and substituting "first".

Amendment No. 4 was adopted.

Amendment No. 5

Representative Rose offered the following amendment to **CSSB 758**:

Amend **CSSB 758** as follows:

(1) In Subdivision (1), Subsection (a), SECTION 40 of the bill (page 37, line 27), strike "Section 30" and substitute "Section 39".

(2) In SECTION 42 of the bill (page 39, between lines 10 and 11), insert the following appropriately numbered subdivision and renumber existing subdivisions of that section as appropriate:

() Section 42.0505, Human Resources Code;

(3) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent sections, and any references to those sections, accordingly:

SECTION _____. Section 42.001, Human Resources Code, is amended to read as follows:

Sec. 42.001. PURPOSE. The purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by establishing statewide minimum standards for their safety and

protection and by regulating the facilities through a licensing program [~~or by requiring child care facilities to be regulated by alternative accreditation bodies~~]. It is the policy of the state to ensure the protection of all children under care in child-care facilities and to encourage and assist in the improvement of child-care programs. It is also the intent of the legislature that freedom of religion of all citizens is inviolate. With respect to a school or child-care facility sponsored by a religious organization, nothing in this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the:

- (1) form, manner, or content of religious instruction, ministry, teaching, or the curriculum offered by the school or facility;
- (2) ability of the school or facility to select and supervise qualified personnel, and otherwise control the terms of employment, including the right to employ individuals who share the religious views of the school or facility;
- (3) internal self-governance and autonomy of the school or facility; or
- (4) religious environment of the school or facility, such as symbols, art, icons, and scripture.

SECTION _____. Subsection (a), Section 42.0445, Human Resources Code, is amended to read as follows:

(a) Before the department issues [~~or renews~~] a license, listing, registration, or certification under this subchapter, the department shall search the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code, to determine whether the applicant or the owner or an employee of the facility or family home is listed in the registry as a person who abused or neglected a child.

SECTION _____. Subsection (a), Section 42.0461, Human Resources Code, is amended to read as follows:

(a) Before the department may issue a license [~~, other than a renewal license,~~] or certificate to operate under Subchapter E for the operation or the expansion of the capacity of a foster group home or foster family home that is located in a county with a population of less than 300,000 and that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker or of a child care institution, the applicant for the license, certificate, or expansion shall, at the applicant's expense:

- (1) conduct a public hearing on the application in accordance with department rules after notifying the department of the date, time, and location of the hearing; and
- (2) publish notice of the application in a newspaper of general circulation in the community in which the child-care services are proposed to be provided.

SECTION _____. Subsection (e), Section 42.048, Human Resources Code, is amended to read as follows:

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. Except as provided by this subsection, a [A] change in location or ownership automatically revokes a license. A change in location of a child-placing agency does not automatically revoke the license to operate the child-placing agency.

SECTION _____. Section 42.0705, Human Resources Code, is amended to read as follows:

Sec. 42.0705. RANGE OF PENALTIES. The department shall revoke or [5] suspend [~~5~~ or ~~refuse to renew~~] a license or registration, place on probation a person whose license or registration has been suspended, or reprimand a license holder or registration holder for a violation of this chapter or a rule of the board. If a license or registration suspension is probated, the department may require the license holder or registration holder to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit services to the areas prescribed by the department;

(3) continue or review professional education until the license holder or registration holder attains a degree of skill satisfactory to the department in those areas that are the basis of the probation; or

(4) take corrective action relating to the violation on which the probation is based.

SECTION _____. Subsection (a), Section 42.078, Human Resources Code, is amended to read as follows:

(a) The department may impose an administrative penalty against a facility or family home licensed or registered under this chapter that violates this chapter or a rule or order adopted under this chapter. In addition, the department may impose an administrative penalty against a residential child-care facility or a controlling person of a residential child-care facility if the facility or controlling person:

(1) violates a term of a license or registration issued under this chapter;

(2) makes a statement about a material fact that the facility or person knows or should know is false:

(A) on an application for the issuance [~~or renewal~~] of a license or registration or an attachment to the application; or

(B) in response to a matter under investigation;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by the facility; or

(B) any part of the premises of the facility;

(4) purposefully interferes with the work of a representative of the department or the enforcement of this chapter; or

(5) fails to pay a penalty assessed under this chapter on or before the date the penalty is due, as determined under this section.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Jackson offered the following amendment to **CSSB 758**:

Amend **CSSB 758** by adding the following appropriately numbered sections and renumber subsequent sections of the bill accordingly:

SECTION _____. Section 42.044, Human Resources Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Except as otherwise provided by this subsection, during an unannounced annual inspection of a day-care center, the department shall meet with the director designated by the day-care center as having daily, on-site responsibility for the operation of the day-care center to assess whether the director meets the qualifications of a director specified by this chapter and department rules. If the director is not present during the unannounced annual inspection, the department shall schedule a subsequent meeting with the director for that purpose and shall conduct that meeting at the day-care center.

SECTION _____. The heading to Section 42.056, Human Resources Code, is amended to read as follows:

Sec. 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS; CRIMINAL PENALTIES.

SECTION _____. Section 42.056, Human Resources Code, is amended by adding Subsections (a-2), (b-1), (g), (h), (i), (j), and (k) to read as follows:

(a-2) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a day-care center shall submit a complete set of fingerprints of each person whose name is submitted by the director, owner, or operator under Subsection (a). The rules adopted by the executive commissioner:

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for conducting a criminal history check; and

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose name is submitted by the director, owner, or operator of a day-care center under Subsection (a), the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints provided under Subsection (a-2), or causing the fingerprints to be submitted electronically as authorized by that subsection, to the Department of Public Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(g) Except as otherwise provided by this subsection, a person whose name is submitted by the director, owner, or operator of a day-care center under Subsection (a) may not provide direct care or have direct access to a child in a day-care center before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. A person may be employed at a day-care center and may provide direct care or have direct access to a child in the day-care center before the person's criminal history check under Subsection (b-1) is completed if:

(1) the state criminal history check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the day-care center; and

(2) the day-care center is experiencing a staffing shortage that, if the day-care center were not allowed to employ the person until completion of the federal criminal history check, would result in a staff-to-child ratio that violates the department's minimum standards.

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a day-care center during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the day-care center, the director, owner, or operator of the day-care center shall immediately terminate the person's employment.

(i) A director, owner, or operator of a day-care center commits an offense if the director, owner, or operator knowingly:

(1) fails to submit to the department information about a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

(2) employs the person at the day-care center or otherwise allows the person to regularly or frequently stay or work at the day-care center while children are being provided care.

(j) A director, owner, or operator of a day-care center commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the day-care center, the director, owner, or operator knowingly:

(1) employs the person at the day-care center; or

(2) otherwise allows the person to regularly or frequently stay or work at the day-care center while children are being provided care.

(k) An offense under Subsection (i) or (j) is a Class B misdemeanor.

SECTION _____. Subchapter D, Chapter 42, Human Resources Code, is amended by adding Section 42.0761 to read as follows:

Sec. 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE CENTER WITHOUT QUALIFIED DIRECTOR. (a) An owner or operator of a day-care center commits an offense if the owner or operator knowingly operates the day-care center:

(1) without a director who meets the qualifications of a director prescribed by department rules; or

(2) without the routine presence during the day-care center's hours of operation of a director described by Subdivision (1).

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

SECTION _____. Section 42.056(a-2), (b-1), (g), and (h), Human Resources Code, as added by this Act, apply to the conduct of background and criminal history checks of a person whose name is submitted to the Department of Family Protective Services under Section 42.056(a), Human Resources Code, on or after the effective date of this Act.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Straus offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (House Committee printing) by inserting the following new SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 29.153(b), Education Code, is amended to read as follows:

(b) A child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and [~~is~~]:

(1) is unable to speak and comprehend the English language;

(2) ~~is~~ educationally disadvantaged;

(3) ~~is~~ a homeless child, as defined by 42 U.S.C. Section 11434a [~~11302~~], regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child;

(4) is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority; [~~or~~]

(5) is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or

(6) is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Section 262.201, Family Code.

SECTION _____. This Act applies beginning with the 2007-2008 school year.

Amendment No. 7 was adopted.

Amendment No. 8

Representative Burnam offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (house committee printing) in SECTION 15 of the bill, in added Subsection (c), Section 264.121, Family Code (page 16, line 10), after the period by inserting "The information booklet provided to the child and the foster parent shall be provided in the primary language spoken by that individual."

Amendment No. 8 was adopted.

Amendment No. 9

Representative Burnam offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.122 to read as follows:

Sec. 264.122. COURT APPROVAL REQUIRED FOR TRAVEL OUTSIDE UNITED STATES BY CHILD IN FOSTER CARE. (a) A child for whom the department has been appointed managing conservator and who has been placed in foster care may travel outside of the United States only if the person with whom the child has been placed has petitioned the court for, and the court has rendered an order granting, approval for the child to travel outside of the United States.

(b) The court shall provide notice to the department and to any other person entitled to notice in the suit if the court renders an order granting approval for the child to travel outside of the United States under this section.

Amendment No. 9 was adopted.

Amendment No. 10

Representative Burnam offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.015 to read as follows:

Sec. 264.015. STANDARDIZED FORMS FOR CERTAIN INFORMATION REQUIRED TO BE SUBMITTED TO DEPARTMENT. The department shall adopt standardized forms for use by foster parent applicants, child-placing agencies, and department caseworkers to submit required information to the department. The standardized forms must be attached to each document provided to a foster parent applicant, child-placing agency, or department caseworker by the department that contains standards relating to the information required to be submitted to the department.

SECTION _____. The Department of Family and Protective Services shall adopt and make available the standardized forms required by Section 264.015, Family Code, as added by this Act, as soon as practicable after the effective date of this Act.

Amendment No. 10 was withdrawn.

Amendment No. 11

Representative Herrero offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (House Committee Printing) as follows:

(1) In Subsection (a), SECTION 10 of the bill, amended Subsection (c), Section 264.106, Family Code (page 10, line 23), strike "at least" and substitute "no more than".

(2) In Subsection (b), SECTION 10 of the bill (page 12, line 11), strike "at least" and substitute "no more than".

(3) In SECTION 34 of the bill, in amended Subsection (a), Section 45.002, Human Resources Code (page 30, line 17), strike "at least" and substitute "no more than".

Amendment No. 11 was withdrawn.

Amendment No. 12

Representative Burnam offered the following amendment to **CSSB 758**:

Amend **CSSB 758** as follows:

(1) In the recital to SECTION 12 of the bill (page 13, line 21), strike "Subsection (g)" and substitute "Subsections (g) and (h)".

(2) In SECTION 12 of the bill, in amended Section 264.107, Family Code (page 15, between lines 1 and 2), insert the following:

(h) The department may not discriminate against an individual on the basis of race, ethnicity, religion, age, or sexual orientation in making placement decisions or determining eligibility to become a foster parent.

Amendment No. 12 was withdrawn.

Amendment No. 13

Representative Villarreal offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 263, Family Code, is amended by adding Section 263.007 to read as follows:

Sec. 263.007. FOSTER CHILDREN'S BILL OF RIGHTS. (a) In this section:

(1) "Agency foster group home," "agency foster home," "facility," "foster group home," and "foster home" have the meanings assigned by Section 42.002, Human Resources Code.

(2) "Foster care" means the placement of a child who is in the conservatorship of the department or an authorized agency in care outside the child's home in an agency foster group home, agency foster home, foster group home, foster home, or another facility licensed or certified under Chapter 42, Human Resources Code, in which care is provided for 24 hours a day.

(3) "Foster children's bill of rights" means the list of rights prescribed by Subsection (b) to which each child in foster care is entitled.

(b) It is the policy of this state that, to the extent provided by state or federal law or policy, each child in foster care has the right:

(1) to live in a safe, healthy, and comfortable home where the child is treated with respect;

(2) to be free from physical, sexual, emotional, and other abuse, including corporal punishment and any form of discipline that humiliates or demeans the child;

(3) to be free from discrimination or harassment on the basis of gender, race, ethnicity, religion, national origin, disability, sexual orientation, or HIV status;

(4) to receive adequate and healthy food;

(5) to receive and keep adequate clothing suitable to the child's age and size and comparable to the clothing of other children in the community;

(6) to receive appropriate medical, dental, vision, and mental health services;

(7) subject to Subdivisions (8) and (9), to not be physically restrained for longer than one minute unless other less restrictive behavioral interventions have been unsuccessful and physical restraint is necessary to:

(A) prevent substantial physical harm or imminent, probable death to the child or imminent physical harm to another person; or

(B) administer medication or provide medical treatment prescribed by a physician;

(8) to not be physically restrained for any period as punishment, retribution, retaliation, or discipline, to obtain compliance from the child, for the convenience of the foster parent or other foster care provider, or as a substitute for effective treatment or rehabilitation;

(9) to not be locked or otherwise confined in any room, building, or facility or placed in an area where the child is physically prevented from leaving, unless the confinement or restriction is based on the written orders of a psychiatrist, psychologist, or physician or is used in an emergency in accordance with the department's minimum standards for emergency behavior interventions;

(10) to be placed in foster care with the child's siblings unless that placement is not in the best interests of the child or the child's siblings;

(11) if a sibling of the child is not placed in foster care with the child, to be informed in writing of the name, address, and telephone number of the home or facility in which the sibling is placed, unless prohibited by court order or the child's caseworker or a department supervisor determines that it is not in the child's best interests and the caseworker or supervisor, as applicable, includes the reason for that determination in the child's case records;

(12) to have a private storage space in the home or facility in which the child resides to store the child's personal belongings;

(13) to not be subjected to unreasonable searches of the child's personal belongings;

(14) to contact caseworkers, attorneys ad litem, guardians ad litem, and court-appointed special advocates;

(15) to communicate with caseworkers, judges, attorneys ad litem, guardians ad litem, court-appointed special advocates, foster parents, and other providers in the child's primary language, including in sign language;

(16) to regularly visit and regularly contact siblings and to regularly contact other family members, unless prohibited by court order or the child's caseworker or a department supervisor determines that it is not in the child's best interests and the caseworker or supervisor, as applicable, includes the reason for that determination in the child's case records;

(17) to never be denied contact or visitation with siblings or other family members as a form of discipline;

(18) to attend religious services and activities of the child's choice;

(19) to interact with persons outside of the foster care system, including teachers, church members, mentors, and friends;

(20) to make and receive confidential telephone calls and to send and receive unopened mail, unless prohibited by court order or the child's caseworker or a department supervisor determines that it is not in the child's best interests and the caseworker or supervisor, as applicable, includes the reason for that determination in the child's case records;

(21) to receive an age-appropriate money allowance, in an amount determined by the foster parent or other foster care provider, for the purpose of developing money management skills, using money from the foster care payments made by the department to the foster parent or other foster care provider for the care of the child;

(22) to maintain a personal bank account and manage personal income consistent with the child's age and developmental level, unless prohibited by the child's service plan;

(23) to expect that the child's records will be kept confidential in accordance with existing state and federal law, including the child's medical, mental health, child protective services, and educational records;

(24) to receive care and treatment in the least restrictive environment that is most like a family setting, consistent with the best interests and needs of the child;

(25) to not be unnecessarily or excessively medicated;

(26) to not be admitted as a voluntary inpatient to a mental health facility unless the child consents as required by Section 572.001(c), Health and Safety Code;

(27) if the child is at least 14 years of age, to request a medical review of the child's medical care, including a review of the medications prescribed to the child, by a medical review team, and to receive a copy of the results of any medical review;

(28) to be informed before the child is 16 years of age that the child, at 16 years of age, may request a court hearing to determine if the child has the capacity to consent to medical care under Section 266.010;

(29) if the child is at least 16 years of age, to consent to all or some medical care, as authorized by the court under Section 266.010;

(30) if the child is at least 12 years of age, to participate in the development of the child's service plan and permanency plan;

(31) if the child is at least 12 years of age, to review and receive information regarding the child's service plan and permanency plan, including any changes made to the plans;

(32) to receive information about the child's foster parent or other foster care provider consistent with the child's age and developmental level;

(33) to be appointed an attorney ad litem who is competent and provides zealous legal representation of the child's interests, and to meet, in person, with the child's attorney ad litem before each hearing involving the child;

(34) to request the appointment of an attorney or guardian ad litem to represent the child, if the child is not already represented by an attorney or guardian ad litem;

(35) to attend a court hearing that affects the conservatorship or placement of the child, including a status hearing, a permanency review hearing, or a placement review hearing;

(36) if the child is at least 14 years of age, to remain in the courtroom during a court hearing that affects the conservatorship or placement of the child, including a status hearing, a permanency review hearing, or a placement review hearing;

(37) regardless of the child's age, to speak privately to the judge at a court hearing that affects the conservatorship or placement of the child, including a status hearing, a permanency review hearing, or a placement review hearing;

(38) if the child has a disability, to be informed, in writing, of the name, existence, purpose, telephone number, and address of the protection and advocacy system established in this state under the applicable federal developmental disability laws, as defined by Section 112.001, Human Resources Code, for the purpose of advocating for and protecting the rights of persons with that disability;

(39) to attend school and participate in sports, clubs, and other school-related extracurricular activities, consistent with the child's age and developmental level;

(40) to participate in community activities, including recreational and social activities, consistent with the child's age and developmental level;

(41) to the extent possible, to have minimal disruption in the child's education, including the right to attend the same school if placed with an alternative foster care provider, unless otherwise ordered by the court;

(42) if the child participates in a special education program, to meet and consult with the surrogate parent assigned to the child in accordance with federal law, regarding the child's individualized education program prior to each admission, review, and dismissal committee meeting held regarding the child;

(43) to participate in an organization that advocates for or on behalf of foster youth;

(44) to work and develop job skills consistent with the child's age in accordance with state and federal law;

(45) if the child is at least 16 years of age, to have access to information regarding postsecondary educational and vocational options available to the child, including information regarding financial aid available for postsecondary education and the course work or other requirements required to complete vocational training and postsecondary educational programs;

(46) to attend classes and receive other services provided under the Preparation for Adult Living Program established under Section 264.121;

(47) on, or as soon as possible after, the date of the child's 18th birthday or the date the child's disabilities of minority are removed, to be provided with the child's health and education passport information, social security card, state-issued personal identification card, and a certified copy of the child's birth certificate;

(48) to be informed in writing of how the child may obtain copies of the child's case records;

(49) to be informed in writing of the name, address, and telephone number of the person at or the division or office of the department that handles complaints regarding a violation of the child's rights; and

(50) to make a confidential complaint with the appropriate person at or the division or office of the department, or to speak confidentially with an appropriate person at the department, regarding a violation of the child's rights without punishment or threat of punishment for making the complaint.

(c) This section may not be construed to require a foster parent or other foster care provider to take any action that would impair the health or safety of a child in foster care. Any action taken that is inconsistent with the foster children's bill of rights must be included in the permanency progress report or placement review report filed with a court.

(d) The department shall provide a written copy of the foster children's bill of rights to each child placed in foster care in the child's primary language, if possible, and shall inform the child of the rights provided by the foster children's bill of rights:

(1) orally in the child's primary language, if possible, and in simple, nontechnical terms; or

(2) for a child who has a disability, including an impairment of vision or hearing, through any means that can reasonably be expected to result in successful communication with the child.

(e) A child placed in foster care may, at the child's option, sign a document acknowledging the child's understanding of the foster children's bill of rights after the department provides a written copy of the foster children's bill of rights to the child and informs the child of the rights provided by that bill of rights in accordance with Subsection (d). If a child signs a document acknowledging the child's understanding of the foster children's bill of rights, the document must be placed in the child's case file.

(f) An agency foster group home, agency foster home, foster group home, foster home, or other facility in which a child is placed in foster care shall provide a copy of the foster children's bill of rights to a child on the child's request. The foster children's bill of rights must be printed in English and in a second language.

(g) The department shall promote the participation of foster children and former foster children in educating other foster children about the foster children's bill of rights.

(h) Except as provided by this subsection, the executive commissioner of the Health and Human Services Commission and the department, as appropriate, shall ensure that the rules and policies governing foster care are consistent with

the state policy outlined by Subsection (b). The executive commissioner or the department, as appropriate, may adopt rules or policies that provide greater protections for the rights of children in foster care.

Representative Rose moved to table Amendment No. 13.

A record vote was requested.

The motion to table prevailed by (Record 1583): 91 Yeas, 46 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dukes; Dutton; Eissler; Elkins; England; Farabee; Flynn; Gattis; Geren; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Laubenberg; Lucio; Macias; Madden; Mallory Caraway; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pitts; Quintanilla; Riddle; Ritter; Rose; Smith, T.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Chavez; Cohen; Coleman; Davis, Y.; Dunnam; Eiland; Escobar; Farias; Farrar; Flores; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Leibowitz; Martinez; Martinez Fischer; McClendon; Miles; Moreno; Naishtat; Olivo; Ortiz; Puente; Raymond; Rodriguez; Strama; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

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

Absent, Excused — Latham; Noriega.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Castro; Christian; Deshotel; Heflin; Hill; Menendez; Peña; Pierson.

Amendment No. 14

Representative Herrero offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (House Committee Printing) as follows:

(1) In Subsection (a), SECTION 10 of the bill, amended Subsection (c), Section 264.106, Family Code (page 10, line 23), strike "at least".

(2) In Subsection (b), SECTION 10 of the bill (page 12, line 11), strike "at least".

(3) In SECTION 34 of the bill, in amended Subsection (a), Section 45.002, Human Resources Code (page 30, line 17), strike "at least".

Amendment No. 14 was adopted.

Amendment No. 15

Representative Hughes offered the following amendment to **CSSB 758**:

Amend **CSSB 758** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 102.005, Family Code, is amended to read as follows:

Sec. 102.005. STANDING TO REQUEST TERMINATION AND ADOPTION. An original suit requesting only an adoption or for termination of the parent-child relationship joined with a petition for adoption may be filed by:

(1) a stepparent of the child;
(2) an adult who, as the result of a placement for adoption, has had actual possession and control of the child at any time during the 30-day period preceding the filing of the petition;

(3) an adult who has had actual possession and control of the child for not less than two months during the three-month period preceding the filing of the petition; ~~[or]~~

(4) an adult who has adopted, or is the foster parent of and has petitioned to adopt, a sibling of the child; or

(5) another adult whom the court determines to have had substantial past contact with the child sufficient to warrant standing to do so.

(b) The change in law made by this section applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Herrero offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (House Committee Printing) as follows:

(1) In Subsection (a), SECTION 10 of the bill, amended Subsection (c), Section 264.106, Family Code (page 10, line 23), strike "at least" and substitute "no more than".

(2) In Subsection (b), SECTION 10 of the bill (page 12, line 11), strike "at least" and substitute "no more than".

(3) In SECTION 34 of the bill, in amended Subsection (a), Section 45.002, Human Resources Code (page 30, line 17), strike "at least" and substitute "no more than".

Amendment No. 16 was withdrawn.

Amendment No. 17

Representative Harper-Brown offered the following amendment to **CSSB 758**:

Amend **CSSB 758** (house committee printing) as follows:

(1) In the recital to SECTION 22 of the bill (page 21, line 19), strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) In SECTION 22 of the bill (page 21, between lines 21 and 22), insert:

(d) In reporting information relating to caseloads of child protective services caseworkers, in addition to reporting caseload by each individual affected by the case, the department shall report the number of cases for each caseworker on the basis of family unit.

Amendment No. 17 was adopted.

CSSB 758 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BOLTON: Patrick, I just wanted to talk to you about a concern that I have and for the purposes of getting some things on the record in the journal. I know that one of my biggest concerns, and I think it's a concern that you and I share, is the whole issue of caseworker/caseload limits and levels, and there are national organizations that have put forth recommendations, like the Child Welfare League of America, that unfortunately, Texas isn't even close to meeting yet. So, is there the possibility, over the interim of studying this issue, of getting us closer to nationally-recognized levels of caseloads?

REPRESENTATIVE ROSE: Absolutely. As we've talked about and as our committees talked about, Child Protective Services is one of the, if not the most, important issue under the Human Services Committee's jurisdiction. That will definitely be a subject of our studies over the interim, and I want to work with you and other members of the house to share our opinion that we need to reduce caseloads to shine more light on the need to make further investments. There's \$32 million in this budget, agreed to by the house and senate in Article II, for the hiring of 372 new conservatorship caseworkers. We need to continue to make progress there. I look forward to working with you on it.

BOLTON: Thank you. I really do think it's one of the best things that we could do for the safety of our abused children and our most at-risk kids, so thank you for that.

REMARKS ORDERED PRINTED

Representative Bolton moved to print remarks between Representative Rose and Representative Bolton.

The motion prevailed.

REPRESENTATIVE HERRERO: Chairman Rose, first of all I want to thank you for accepting the amendment, and just for legislative intent, I want to ask you a question. As amended, **SB 758** will set a goal for contracting for case management services in at least 10 percent, but not more than 10 percent, of the cases in the state in which Department of Family Protective Services has been appointed temporary or permanent managing conservator. Is that your intent, as you understand?

ROSE: That's correct. The goal would be to get the 10 percent. Your concern, and I share it, was that the language, as written, looks like it'd be very permissive for the department to go well above 10 percent. I think the 10 percent target is a

good one for this biennium, and so that certainly is my intent in this bill, and I appreciate your amendment.

HERRERO: Thank you. So as amended, it gets the 10 percent, but it doesn't exceed 10 percent, correct?

ROSE: Correct.

REMARKS ORDERED PRINTED

Representative Herrero moved to print remarks between Representative Rose and Representative Herrero.

The motion prevailed.

CSSB 758, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 758 - HOUSE SPONSOR AUTHORIZED

On motion of Representative Rose, Representative Martinez Fischer was authorized as a house sponsor to **CSSB 758**.

(Noriega now present)

POSTPONED BUSINESS

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

(Speaker in the chair)

CSSB 785 ON SECOND READING

(Morrison - House Sponsor)

CSSB 785, A bill to be entitled An Act relating to information related to the performance of an abortion; creating an offense.

CSSB 785 was read second time earlier today and was postponed until this time.

Representative Morrison moved to postpone consideration of **CSSB 785** until 9 a.m. tomorrow.

The motion prevailed.

MAJOR STATE CALENDAR

(consideration continued)

CSSB 966 ON SECOND READING

(Van Arsdale - House Sponsor)

CSSB 966, A bill to be entitled An Act relating to a qualified privilege of a journalist not to testify.

CSSB 966 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GATTIS: Representative Van Arsdale, **CSSB 966** requires that a party seeking evidence from a journalist make a clear and specific showing of a number of requirements. This burden of proof is not currently recognized in Texas criminal law, so for purposes of **CSSB 966** it is the intent of the legislation that the burden of clear and specific is a lesser standard than clear and convincing and a greater standard than by a preponderance of the evidence?

REPRESENTATIVE VAN ARSDALE: That's correct.

GATTIS: In camera inspections of contested evidence is a common practice in Texas courts, especially when the evidence is of a confidential nature. It is my understanding that it is not the intent of **CSSB 966** to alter a court's authority to require an in camera inspection of contested evidence. Is that correct?

VAN ARSDALE: That's right, the court doesn't have to do in camera, and it is not prohibited from doing in camera. It's really at the court's discretion.

GATTIS: Okay, so this doesn't limit it or add it in any way?

VAN ARSDALE: That's right.

REMARKS ORDERED PRINTED

Representative Gattis moved to print remarks between Representative Van Arsdale and Representative Gattis.

The motion prevailed.

CSSB 966 - POINT OF ORDER

Representative Riddle raised a point of order against further consideration of **CSSB 966** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Van Arsdale moved to postpone consideration of **CSSB 966** until 7:15 p.m. today.

The motion prevailed.

**CSSB 1204 ON SECOND READING
(Gattis - House Sponsor)**

CSSB 1204, A bill to be entitled An Act relating to the reorganization and administration of, and procedures relating to, courts in this state, including procedures for appeals.

CSSB 1204 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSSB 1204** under Rule 4, Section 18 of the House Rules on the grounds that the committee meeting minutes are inaccurate.

The point of order was withdrawn.

Representative Gattis moved to postpone consideration of **CSSB 1204** until 7:15 p.m. today.

The motion prevailed.

CSSB 228 ON SECOND READING
(Eiland - House Sponsor)

CSSB 228, A bill to be entitled An Act relating to suits affecting the parent-child relationship, including proceedings for the establishment, modification, and enforcement of child support; providing a civil penalty.

(Woolley in the chair)

Amendment No. 1

Representative Eiland offered the following amendment to **CSSB 228**:

Amend **CSSB 228**, on page 4 (House Committee Report), line 4, by striking ", as appropriate,".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Eiland offered the following amendment to **CSSB 228**:

Amend **CSSB 228** by striking Section 24 of the bill (committee printing page 16, lines 7 through 14) and substituting the following:

SECTION 24. Chapter 232, Family Code, is amended by adding Section 232.0022 to read as follows:

Sec. 232.0022. SUSPENSION OR NONRENEWAL OF MOTOR VEHICLE REGISTRATION. (a) The Texas Department of Transportation is the appropriate licensing authority for suspension or nonrenewal of a motor vehicle registration under this chapter.

(b) The suspension or nonrenewal of a motor vehicle registration under this chapter does not:

(1) encumber the title to the motor vehicle or otherwise affect the transfer of the title to the vehicle; or

(2) affect the sale, purchase, or registration of the motor vehicle by a person who holds a general distinguishing number issued under Chapter 503, Transportation Code.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Homer offered the following amendment to **CSSB 228**:

Amend **CSSB 228** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subtitle D, Title 5, Family Code, is amended by adding Chapter 237 to read as follows:

CHAPTER 237. ADMINISTRATIVE DOMESTIC RELATIONS ORDER

Sec. 237.001. RENDITION OF ADMINISTRATIVE DOMESTIC RELATIONS ORDER. (a) The director of the Title IV-D agency or an assistant attorney general designated by the director may render an administrative domestic relations order to be delivered to a retirement plan subject to the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.) or the law of this state to enforce a child support obligation against an obligor who has or will have vested retirement benefits under the plan.

(b) The Title IV-D agency may render an administrative domestic relations order under this chapter until all current child support and arrearages owed by the obligor, including money due for medical support, have been paid.

(c) A domestic relations order under this chapter must:

(1) be signed by the director of the Title IV-D agency or the director's designee; and

(2) include a statement that the assignment of benefits under the order is effective on the date the order is received by the retirement plan but that the retirement plan shall delay any distribution to the alternate payee until the first regularly scheduled distribution that occurs at least 30 days after that date in order to permit the obligor an opportunity to contest the order under Section 237.006.

Sec. 237.002. EFFECT OF DOMESTIC RELATIONS ORDER BY COURT. (a) The Title IV-D agency may not render a domestic relations order under this chapter for a suit affecting the parent-child relationship in which:

(1) a judge or an associate judge of a court of continuing jurisdiction renders a domestic relations order in the suit with respect to a retirement plan in which a child support obligor has or will have vested retirement benefits; and

(2) the court's order provides for the enforcement of the obligor's child support obligation.

(b) A domestic relations order rendered by the Title IV-D agency before the court's order remains in effect to the extent that the provisions of the order under this chapter are not superseded by the court's order.

(c) Notwithstanding Subsection (a), the Title IV-D agency may render a domestic relations order reflecting that child support arrearages have been paid in full.

Sec. 237.003. PLAN DISTRIBUTIONS AS TAXABLE INCOME. (a) A domestic relations order rendered under this chapter must provide that all plan distributions from tax-deferred benefits for the payment of child support shall be reported by the plan as income of the plan participant for federal income tax purposes.

(b) If a plan administrator refuses to accept the domestic relations order as qualified because of the provision required by Subsection (a), the Title IV-D agency may file a motion in the court of continuing jurisdiction to have the payment credit for plan distributions for which the obligee incurs a tax liability reduced by the amount of the obligee's marginal tax rate. After notice and hearing under Chapter 157, the court shall grant the agency's motion on sufficient proof of the obligee's marginal tax rate.

Sec. 237.004. FILING ADMINISTRATIVE DOMESTIC RELATIONS ORDER. The Title IV-D agency shall file a copy of an administrative domestic relations order with the court of continuing jurisdiction not later than the third business day after the date the order is sent to the retirement plan.

Sec. 237.005. NOTICE OF ORDER. (a) Not later than the 12th business day after the date the administrative domestic relations order is sent to the retirement plan, the Title IV-D agency shall send to the obligor, the obligee, and any other party:

(1) notice that a domestic relations order has been rendered by the agency and transmitted to the retirement plan together with a statement of the procedures by which a party may contest the order with regard to the identity of the obligor or the existence or amount of a current child support obligation or arrearages; and

(2) a copy of the order.

(b) The notice required under this section may be delivered to a party by:

(1) personal delivery by a person designated by the Title IV-D agency;

(2) first-class mail to the party's address on file with the state case registry and to the party's last known address, if different; or

(3) service of citation as in civil cases generally.

Sec. 237.006. CONTEST OF ADMINISTRATIVE DOMESTIC RELATIONS ORDER. (a) A party who receives a notice under Section 237.005 may request a review by the Title IV-D agency to resolve any issue in dispute regarding the identity of the obligor or the existence or amount of a current child support obligation or arrearages.

(b) The Title IV-D agency shall promptly provide an opportunity for a review either by a telephone conference or in person as appropriate to the circumstances. If the agency receives a request for review under this section not later than the 15th day after the date the agency sent notice under Section 237.005 to the party requesting the review, and the agency is not able to complete the review within 24 days after the date the agency sent the order to the retirement plan, the agency shall render a temporary order directing the plan to delay distribution to the alternate payee until receiving further order from the agency.

(c) After a review under this section, the Title IV-D agency may render a new administrative domestic relations order that modifies or terminates the previous order.

(d) If a review under this section fails to resolve any issue in dispute, the party may file with the court a motion under Chapter 157 to withdraw or modify the administrative domestic relations order or to replace the order with an alternative payment arrangement. In determining whether to withdraw, modify, or replace the agency's order, the court may consider the subsistence needs of the obligor and the obligor's family against the right of the obligee to have child support arrearages paid as quickly as possible.

SECTION _____. Subsection (a), Section 9.101, Family Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, the court that rendered a final decree of divorce or annulment or another final order dividing property under this title retains continuing, exclusive jurisdiction to render an enforceable qualified domestic relations order or similar order permitting payment of pension, retirement plan, or other employee benefits divisible under the law of this state or of the United States to an alternate payee or other lawful payee, except that a court with jurisdiction under Title 5 may render an enforceable qualified domestic relations order to enforce support for a child.

SECTION _____. Subsection (e), Section 201.104, Family Code, is amended to read as follows:

(e) Notwithstanding Subsection (d) and subject to Section 201.1042(g), an associate judge may hear and render an order on:

- (1) a suit to modify or clarify an existing child support order;
- (2) a motion to enforce a child support order, including a motion for the rendition of a qualified domestic relations order for child support, or revoke a respondent's community supervision and suspension of commitment; or
- (3) a respondent's compliance with the conditions provided in the associate judge's report for suspension of the respondent's commitment.

SECTION _____. Subsection (e), Section 231.002, Family Code, is amended to read as follows:

(e) The Title IV-D agency may take the following administrative actions with respect to the location of a parent, the determination of parentage, and the establishment, modification, and enforcement of child support and medical support orders required by 42 U.S.C. Section 666(c), without obtaining an order from any other judicial or administrative tribunal:

- (1) issue an administrative subpoena, as provided by Section 231.303, to obtain financial or other information;
- (2) order genetic testing for parentage determination, as provided by Chapter 233;
- (3) order income withholding, as provided by Chapter 233, and issue an administrative writ of withholding, as provided by Chapter 158; ~~and~~
- (4) take any action with respect to execution, collection, and release of a judgment or lien for child support necessary to satisfy the judgment or lien, as provided by Chapter 157; and
- (5) render an administrative domestic relations order under Chapter 237.

SECTION _____. Subsection (b), Section 804.003, Government Code, is amended to read as follows:

(b) Except as provided in Subsection (d), the administrative head of a public retirement system to which this chapter applies and to which a domestic relations order is submitted or his designee has exclusive authority to determine whether a domestic relations order, or an administrative domestic relations order rendered by the Title IV-D agency under Chapter 237, Family Code, is a qualified domestic relations order. A determination by the administrative head or his designee under this section may be appealed only to the board of trustees of the public retirement system. An appeal to the board of trustees of a statewide

retirement system is a contested case under Chapter 2001. However, the board of a statewide retirement system by rule may waive the requirement of an appeal to the board. On appeal of a decision made by the board of trustees or by the administrative head if there is no appeal to the board under this section, the standard of review is by substantial evidence.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Bonnen offered the following amendment to **CSSB 228**:

Amend **CSSB 228** by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION _____. Section 154.131, Family Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding any other provision of this subtitle, the court retains jurisdiction to render an order for retroactive child support in a suit other than a Title IV-D case if a petition requesting retroactive child support is filed not later than the fourth anniversary of the date of the child's 18th birthday.

SECTION _____. The change in law made by this Act by the enactment of Section 154.131(f), Family Code, applies only to a petition in a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

Amendment No. 4 was adopted. (Puente recorded voting present, not voting.)

Amendment No. 5

Representative Phillips offered the following amendment to **CSSB 228**:

Amend **CSSB 228** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 154.062, Family Code, is amended by adding Subsection (e) to read as follows:

(e) In calculating expenses for health insurance coverage for an obligor's child under Subsection (d)(5), if the obligor has other minor dependents covered under the same health insurance plan, the court shall divide the total cost to the obligor for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION _____. Section 154.125, Family Code, is amended to read as follows:

Sec. 154.125. APPLICATION OF GUIDELINES TO NET RESOURCES OF \$7,500 [~~\$6,000~~] OR LESS. (a) The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are \$7,500 [~~\$6,000~~] or less.

(b) If the obligor's monthly net resources are \$7,500 [~~\$6,000~~] or less, the court shall presumptively apply the following schedule in rendering the child support order:

CHILD SUPPORT GUIDELINES

BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

1 child	20% of Obligor's Net Resources
2 children	25% of Obligor's Net Resources
3 children	30% of Obligor's Net Resources
4 children	35% of Obligor's Net Resources
5 children	40% of Obligor's Net Resources
6+ children	Not less than the amount for 5 children

(c) If the obligor's monthly net resources are less than \$2,000, the court may order, after application of the guidelines, additional amounts of child support as appropriate, based on the income of each of the parties and the proven needs of the child, except that the obligor may not be required to pay an additional amount of child support that is more than the greater of the presumptive amount under Subsection (b) or the amount equal to 100 percent of the proven needs of the child.

SECTION _____. Section 154.126, Family Code, is amended to read as follows:

Sec. 154.126. APPLICATION OF GUIDELINES TO NET RESOURCES OF MORE THAN \$7,500 [~~\$6,000~~] MONTHLY. (a) If the obligor's net resources exceed \$7,500 [~~\$6,000~~] per month, the court shall presumptively apply the percentage guidelines to the first \$7,500 [~~\$6,000~~] of the obligor's net resources. Without further reference to the percentage recommended by these guidelines, the court may order additional amounts of child support as appropriate, depending on the income of the parties and the proven needs of the child.

(b) The proper calculation of a child support order that exceeds the presumptive amount established for the first \$7,500 [~~\$6,000~~] of the obligor's net resources requires that the entire amount of the presumptive award be subtracted from the proven total needs of the child. After the presumptive award is subtracted, the court shall allocate between the parties the responsibility to meet the additional needs of the child according to the circumstances of the parties, except that [~~However, in no event may~~] the obligor may not be required to pay an additional amount of [~~more~~] child support that is more than the greater of the presumptive amount or the amount equal to 100 percent of the proven needs of the child.

SECTION _____. Subsection (b), Section 154.130, Family Code, is amended to read as follows:

(b) If findings are required by this section, the court shall state whether the application of the guidelines would be unjust or inappropriate and shall state the following in the child support order:

"(1) the monthly net resources of the obligor per month are \$ _____;

"(2) the monthly net resources of the obligee per month are \$ _____;

"(3) the percentage applied to the obligor's net resources for child support by the actual order rendered by the court is _____%;

"(4) the amount of child support if the percentage guidelines are applied to the first \$7,500 [~~\$6,000~~] of the obligor's net resources is \$ _____;

"(5) if applicable, the specific reasons that the amount of child support per month ordered by the court varies from the amount stated in Subdivision (4) are: _____; and

"(6) if applicable, the obligor is obligated to support children in more than one household, and:

"(A) the number of children before the court is _____;

"(B) the number of children not before the court residing in the same household with the obligor is _____; and

"(C) the number of children not before the court for whom the obligor is obligated by a court order to pay support, without regard to whether the obligor is delinquent in child support payments, and who are not counted under Paragraph (A) or (B) is _____."

SECTION _____. Section 154.182, Family Code, is amended by adding Subsection (d) to read as follows:

(d) In calculating the additional child support to be withheld under Subsection (b)(2), if the obligee has other minor dependents covered under the same health insurance plan, the court shall divide the total cost to the obligee for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION _____. Subsection (b), Section 154.183, Family Code, is amended to read as follows:

(b) If the court finds and states in the child support order that the obligee will maintain health insurance coverage for the child at the obligee's expense, the court may increase the amount of child support to be paid by the obligor in an amount not exceeding the total expense to the obligee for maintaining health insurance coverage. In calculating the total expense to the obligee for maintaining health insurance for the child under this subsection, if the obligee has other minor dependents covered under the same health insurance plan, the court shall divide the total expense to the obligee for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION _____. The changes in law made by this Act to Chapter 154, Family Code, relating to the calculation of a child support obligation apply only to a proceeding to establish or modify a child support obligation that is pending in a trial court on, or filed on or after, the effective date of this Act.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Phillips offered the following amendment to **CSSB 228**:

Amend **CSSB 228** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subsection (d), Section 153.007, Family Code, is amended to read as follows:

(d) If the court finds the agreed parenting plan is not in the child's best interest, the court may request the parties to submit a revised parenting plan. If the parties do not submit a revised parenting plan satisfactory to the court, ~~or~~ the

court may, after notice and hearing, ~~render an~~ order a parenting plan that the court finds to be in the best interest of ~~[for the conservatorship and possession of]~~ the child.

SECTION _____. Section 153.0071, Family Code, is amended by adding Subsection (g) to read as follows:

(g) The provisions for confidentiality of alternative dispute resolution procedures under Chapter 154, Civil Practice and Remedies Code, apply equally to the work of a parenting coordinator, as defined by Section 153.601, and to the parties and any other person who participates in the parenting coordination. This subsection does not affect the duty of a person to report abuse or neglect under Section 261.101.

SECTION _____. Subsection (b), Section 153.133, Family Code, is amended to read as follows:

(b) The agreed parenting plan may ~~must~~ contain an alternative dispute resolution procedure that the parties agree to use before requesting enforcement or modification of the terms and conditions of the joint conservatorship through litigation, except in an emergency.

SECTION _____. Subchapter J, Chapter 153, Family Code, is amended by amending Sections 153.601, 153.602, and 153.603 and adding Section 153.6031 to read as follows:

Sec. 153.601. DEFINITIONS. In this subchapter:

(1) "Dispute resolution process" means:

(A) a process of alternative dispute resolution conducted in accordance with Section 153.0071 of this chapter and Chapter 154, Civil Practice and Remedies Code; or

(B) any other method of voluntary dispute resolution.

(2) "High-conflict case" means a suit affecting the parent-child relationship in which the court finds that the parties have demonstrated an unusual degree ~~[demonstrate a pattern]~~ of:

(A) repetitiously resorting to the adjudicative process ~~[repetitious litigation];~~

(B) anger and distrust; and

(C) difficulty in communicating about and cooperating in the care of their children ~~[; or~~

[(D) other behaviors that in the discretion of the court warrant the appointment of a parenting coordinator].

(3) "Parenting coordinator" means an impartial third party appointed by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving ~~[issues relating to] parenting [and other family] issues [arising from an order in a suit affecting the parent-child relationship].~~

(4) "Parenting plan" means the provisions of a ~~[temporary or] final court order that:~~

(A) set [sets] out [the] rights and duties of a parent or a person acting as a parent in relation to the child;

(B) provide for periods of possession of and access to the child, which may be the terms set out in the standard possession order under Subchapter F and any amendments to the standard possession order agreed to by the parties or found by the court to be in the best interest of the child;

(C) provide for [of parents in a suit affecting the parent-child relationship and includes provisions relating to conservatorship, possession of and access to a child, and] child support; and

(D) optimize the development of a close and continuing relationship between each parent and the child [and a dispute resolution process to minimize future disputes].

Sec. 153.602. ~~REQUIREMENT FOR TEMPORARY~~ PARENTING PLAN NOT REQUIRED IN TEMPORARY ORDER. ~~[(a)]~~ A temporary order ~~[that establishes a conservatorship]~~ in a suit affecting the parent-child relationship rendered in accordance with Section 105.001 is not required to include ~~[must incorporate]~~ a temporary parenting plan. The court may not require the submission of a temporary parenting plan in any case or by local rule or practice. ~~[The temporary parenting plan must comply with the requirements for a final parenting plan under Section 153.603.]~~

~~[(b) Subject to Subsection (c), if the parties cannot agree to a temporary parenting plan, the court may, on the motion of a party or on the court's own motion, order the parties to participate in a dispute resolution process to establish a temporary parenting plan.]~~

~~[(c) At any time before the court orders the parties to participate in a dispute resolution process under Subsection (b), a party may file a written objection to the referral of the suit to a dispute resolution process on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. After an objection is filed, the suit may not be referred to a dispute resolution process unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If the suit is referred to a dispute resolution process, the court shall order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection. The order may provide that the parties not be required to have face to face contact and that the parties be placed in separate rooms during the dispute resolution process.]~~

~~[(d) If a dispute resolution process is not available or is not successful, a party may request and the court may order an expedited hearing to establish a temporary parenting plan.]~~

Sec. 153.603. REQUIREMENT OF ~~FINAL~~ PARENTING PLAN IN FINAL ORDER. (a) Except as provided by Subsection (b), a [A] final order in a suit affecting the parent-child relationship must include [incorporate] a [final] parenting plan. [A final parenting plan must:

(1) establish the rights and duties of each parent with respect to the child, consistent with the criteria in this chapter;

(2) minimize the child's exposure to harmful parental conflict;

~~[(3) provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for further modifications to the final parenting plan; and~~

~~[(4) provide for a dispute resolution process or other voluntary dispute resolution procedures, before court action, unless precluded or limited by Section 153.0071.]~~

(b) The following orders are not required to include a parenting plan:

(1) an order that only modifies child support;

(2) an order that only terminates parental rights; or

(3) a final order described by Section 155.001(b) ~~[In providing for a dispute resolution process, the parenting plan must state that:~~

~~[(1) preference shall be given to carrying out the parenting plan; and~~

~~[(2) the parties shall use the designated process to resolve disputes].~~

~~(c) [If the parties cannot reach agreement on a final parenting plan, the court, on the motion of a party or on the court's own motion, may order appropriate dispute resolution proceedings under Section 153.0071 to determine a final parenting plan.~~

~~[(d) If the parties have not reached agreement on a final parenting plan on or before the 30th day before the date set for trial on the merits, a [each] party may [shall] file with the court and serve a proposed [final] parenting plan. [Failure by a party to comply with this subsection may result in the court's adoption of the proposed final parenting plan filed by the opposing party if the court finds that plan to be in the best interest of the child.]~~

(d) This section does not preclude the parties from requesting the appointment of a parenting coordinator to resolve parental conflicts. ~~[(e) Each party filing a proposed final parenting plan must attach:~~

~~[(1) a verified statement of income determined in accordance with the child support guidelines and related provisions prescribed by Chapter 154; and~~

~~[(2) a verified statement that the plan is proposed in good faith and is in the best interest of the child.]~~

Sec. 153.6031. EXCEPTION TO DISPUTE RESOLUTION PROCESS REQUIREMENT. A requirement in a parenting plan that a party initiate or participate in a dispute resolution process before filing a court action does not apply to an action:

(1) to modify the parenting plan in an emergency;

(2) to modify child support;

(3) alleging that the child's present circumstances will significantly impair the child's physical health or significantly impair the child's emotional development;

(4) to enforce; or

(5) in which the party shows that enforcement of the requirement is precluded or limited by Section 153.0071.

SECTION _____. Section 153.605, Family Code, is amended to read as follows:

Sec. 153.605. APPOINTMENT OF PARENTING COORDINATOR. (a) In a suit affecting the parent-child relationship, the court may, on its own motion or on a motion or agreement of the parties, appoint a parenting coordinator to assist the parties in resolving ~~[issues related to] parenting [or other family] issues [in the suit].~~

(b) The court may not appoint a parenting coordinator ~~[if any party objects]~~ unless, after notice and hearing, the court makes a specific finding ~~[findings]~~ that:

(1) the case is ~~[or is likely to become]~~ a high-conflict case; or

(2) there is good cause shown for the appointment of a parenting coordinator and the appointment is in the best interest of any minor child in the suit.

(c) Notwithstanding any other provision of this subchapter, a party may at any time ~~[prior to the appointment of a parenting coordinator]~~ file a written objection to the appointment of a parenting coordinator on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. After an objection is filed, a parenting coordinator may not be appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If a parenting coordinator is appointed, the court shall order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection. The order may provide that the parties not be required to have face-to-face contact and that the parties be placed in separate rooms during the parenting coordination.

SECTION _____. The heading to Section 153.606, Family Code, is amended to read as follows:

Sec. 153.606. DUTIES ~~[AUTHORITY]~~ OF PARENTING COORDINATOR.

SECTION _____. Subsections (a) and (c), Section 153.606, Family Code, are amended to read as follows:

(a) The duties ~~[authority]~~ of a parenting coordinator must be specified in the order appointing the parenting coordinator. The duties of the parenting coordinator are [and] limited to matters that will aid the parties in:

(1) identifying disputed issues;

(2) reducing misunderstandings;

(3) clarifying priorities;

(4) exploring possibilities for problem solving;

(5) developing methods of collaboration in parenting;

(6) understanding parenting plans and reaching agreements about parenting issues to be included in a parenting plan [developing a parenting plan]; and

(7) complying with the court's order regarding conservatorship or possession of and access to the child.

(c) The parenting coordinator may not modify any order, judgment, or decree ~~[but may urge or suggest that the parties agree to minor temporary departures from a parenting plan if the parenting coordinator is authorized by the court to do so].~~ If a suit is pending, any [Any] agreement made by the parties with

the assistance of ~~and~~ the parenting coordinator must ~~may~~ be reduced to writing, signed by the parties and their attorneys, if any, and filed with ~~presented to~~ the court ~~for approval~~.

SECTION _____. Subsection (b), Section 153.607, Family Code, is amended to read as follows:

(b) The court shall ~~may~~ remove the parenting coordinator:

- (1) on the request and agreement of both parties; or
- (2) on the motion of a party, if good cause is shown.

SECTION _____. Section 153.608, Family Code, is amended to read as follows:

Sec. 153.608. REPORT OF PARENTING COORDINATOR. A parenting coordinator shall submit a written report to the court and to the parties as often as ordered by the court. The ~~In the~~ report must be limited to a statement of, ~~the parenting coordinator may give only an opinion regarding~~ whether the parenting coordination ~~is succeeding and~~ should continue.

SECTION _____. Subsections (a) and (c), Section 153.609, Family Code, are amended to read as follows:

(a) A court may not appoint a parenting coordinator, other than a domestic relations office or a comparable county agency appointed under ~~an employee described by~~ Subsection (c) or a volunteer appointed under Subsection (d), unless, after notice and hearing, the court finds that the parties have the means to pay the fees of the parenting coordinator.

(c) Public funds may not be used to pay the fees of a parenting coordinator. Notwithstanding this prohibition, a court may appoint ~~an employee of the court,~~ the domestic relations office~~;~~ or a comparable county agency to act as a parenting coordinator if personnel are available to serve that function.

SECTION _____. The following are repealed:

- (1) Section 153.604, Family Code; and
- (2) Subsections (e) and (f), Section 153.606, Family Code.

SECTION _____. The changes in law made by this Act to Chapter 153, Family Code, relating to the use of a parenting plan or a parenting coordinator apply to a suit affecting the parent-child relationship that is pending in a trial court on the effective date of this Act or that is filed on or after the effective date of this Act.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Phillips offered the following amendment to **CSSB 228**:

Amend **CSSB 228** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 154.062, Family Code, is amended by adding Subsection (e) to read as follows:

(e) In calculating expenses for health insurance coverage for an obligor's child under Subsection (d)(5), if the obligor has other minor dependents covered under the same health insurance plan, the court shall divide the total cost to the obligor for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION _____. Section 154.125, Family Code, is amended to read as follows:

Sec. 154.125. APPLICATION OF GUIDELINES TO NET RESOURCES ~~[OF \$6,000 OR LESS]~~. (a) The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than \$7,500 or the adjusted amount determined under Subsection (a-1), whichever is greater ~~[\$6,000 or less]~~.

(a-1) The dollar amount prescribed by Subsection (a) is adjusted every ten years as necessary to reflect inflation. The Title IV-D agency shall compute the adjusted amount, to take effect beginning September 1 of the year of the adjustment, based on the percentage change during the preceding ten-year period in the consumer price index, as rounded to the nearest \$50 increment. The Title IV-D agency shall publish the adjusted amount in the Texas Register before September 1 of the year in which the adjustment takes effect. For purposes of this subsection, "consumer price index" has the meaning assigned by Section 341.201, Finance Code.

(a-2) The initial adjustment required by Subsection (a-1) shall take effect September 1, 2017. This subsection expires September 1, 2018.

(b) If the obligor's monthly net resources are not greater than the amount provided by Subsection (a) ~~[\$6,000 or less]~~, the court shall presumptively apply the following schedule in rendering the child support order:

CHILD SUPPORT GUIDELINES

BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

1 child	20% of Obligor's Net Resources
2 children	25% of Obligor's Net Resources
3 children	30% of Obligor's Net Resources
4 children	35% of Obligor's Net Resources
5 children	40% of Obligor's Net Resources
6+ children	Not less than the amount for 5 children

SECTION _____. Section 154.126, Family Code, is amended to read as follows:

Sec. 154.126. APPLICATION OF GUIDELINES TO ADDITIONAL NET RESOURCES ~~[OF MORE THAN \$6,000 MONTHLY]~~. (a) If the obligor's net resources exceed the amount provided by Section 154.125(a) ~~[\$6,000 per month]~~, the court shall presumptively apply the percentage guidelines to the portion ~~[first \$6,000]~~ of the obligor's net resources that does not exceed that amount. Without further reference to the percentage recommended by these guidelines, the court may order additional amounts of child support as appropriate, depending on the income of the parties and the proven needs of the child.

(b) The proper calculation of a child support order that exceeds the presumptive amount established for the portion ~~[first \$6,000]~~ of the obligor's net resources provided by Section 154.125(a) requires that the entire amount of the

presumptive award be subtracted from the proven total needs of the child. After the presumptive award is subtracted, the court shall allocate between the parties the responsibility to meet the additional needs of the child according to the circumstances of the parties. However, in no event may the obligor be required to pay more child support than the greater of the presumptive amount or the amount equal to 100 percent of the proven needs of the child.

SECTION _____. Section 154.130(b), Family Code, is amended to read as follows:

(b) If findings are required by this section, the court shall state whether the application of the guidelines would be unjust or inappropriate and shall state the following in the child support order:

"(1) the monthly net resources of the obligor per month are \$ _____;

"(2) the monthly net resources of the obligee per month are \$ _____;

"(3) the percentage applied to the obligor's net resources for child support by the actual order rendered by the court is _____%;

"(4) the amount of child support if the percentage guidelines are applied to the portion [first \$6,000] of the obligor's net resources that does not exceed the amount provided by Section 154.125(a), Family Code, is \$ _____;

"(5) if applicable, the specific reasons that the amount of child support per month ordered by the court varies from the amount stated in Subdivision (4) are: _____; and

"(6) if applicable, the obligor is obligated to support children in more than one household, and:

"(A) the number of children before the court is _____;

"(B) the number of children not before the court residing in the same household with the obligor is _____; and

"(C) the number of children not before the court for whom the obligor is obligated by a court order to pay support, without regard to whether the obligor is delinquent in child support payments, and who are not counted under Paragraph (A) or (B) is _____."

SECTION _____. Section 154.182, Family Code, is amended by adding Subsection (d) to read as follows:

(d) In calculating the additional child support to be withheld under Subsection (b)(2), if the obligee has other minor dependents covered under the same health insurance plan, the court shall divide the total cost to the obligee for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION _____. Subsection (b), Section 154.183, Family Code, is amended to read as follows:

(b) If the court finds and states in the child support order that the obligee will maintain health insurance coverage for the child at the obligee's expense, the court may increase the amount of child support to be paid by the obligor in an amount not exceeding the total expense to the obligee for maintaining health insurance coverage. In calculating the total expense to the obligee for maintaining health insurance for the child under this subsection, if the obligee has other minor

dependents covered under the same health insurance plan, the court shall divide the total expense to the obligee for the insurance by the total number of minor dependents, including the child, covered under the plan.

SECTION _____. The changes in law made by this Act to Chapter 154, Family Code, relating to the calculation of a child support obligation apply only to a proceeding to establish or modify a child support obligation that is pending in a trial court on, or filed on or after, the effective date of this Act.

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Gonzalez Toureilles offered the following amendment to **CSSB 228**:

Amend **CSSB 228** (house committee printing) by inserting the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 160.102(6), Family Code, is amended to read as follows:

(6) "Donor" means an individual who provides ~~[produces]~~ eggs or sperm to a licensed physician to be used for assisted reproduction, regardless of whether the eggs or sperm are provided ~~[production is]~~ for consideration. The term does not include:

(A) a husband who provides sperm or a wife who provides eggs to be used for assisted reproduction by the wife; ~~[or]~~

(B) a woman who gives birth to a child by means of assisted reproduction; or

(C) an unmarried man who, with the intent to be the father of the resulting child, provides sperm to be used for assisted reproduction by an unmarried woman, as provided by Section 160.7031.

SECTION _____. Subchapter H, Chapter 160, Family Code, is amended by adding Section 160.7031 to read as follows:

Sec. 160.7031. UNMARRIED MAN'S PATERNITY OF CHILD OF ASSISTED REPRODUCTION. (a) If an unmarried man, with the intent to be the father of a resulting child, provides sperm to a licensed physician and consents to the use of that sperm for assisted reproduction by an unmarried woman, he is the father of a resulting child.

(b) Consent by an unmarried man who intends to be the father of a resulting child in accordance with this section must be in a record signed by the man and the unmarried woman and kept by a licensed physician.

SECTION _____. Section 160.704(a), Family Code, is amended to read as follows:

(a) Consent by a married woman to assisted reproduction must be in a record signed by the woman and her husband and kept by a licensed physician. This requirement does not apply to the donation of eggs by a married woman for assisted reproduction by another woman.

SECTION _____. Section 160.706, Family Code, is amended to read as follows:

Sec. 160.706. EFFECT OF DISSOLUTION OF MARRIAGE. (a) If a marriage is dissolved before the placement of eggs, sperm, or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a record kept by a licensed physician that if assisted reproduction were to occur after a divorce the former spouse would be a parent of the child.

(b) The consent of a former spouse to assisted reproduction may be withdrawn by that individual in a record kept by a licensed physician at any time before the placement of eggs, sperm, or embryos.

SECTION _____. Section 160.707, Family Code, is amended to read as follows:

Sec. 160.707. PARENTAL STATUS OF DECEASED SPOUSE. If a spouse dies before the placement of eggs, sperm, or embryos, the deceased spouse is not a parent of the resulting child unless the deceased spouse consented in a record kept by a licensed physician that if assisted reproduction were to occur after death ~~the deceased spouse would be a parent of the child.~~

SECTION _____. The change in law made by this Act to Chapter 160, Family Code, applies to a motion or other request for relief made in a parentage or paternity proceeding that is commenced on or after the effective date of this Act. A motion or other request for relief made in a parentage or paternity proceeding commenced before the effective date of this Act is governed by the law in effect at the time the proceeding was commenced, and the former law is continued in effect for that purpose.

Amendment No. 8 was adopted.

Amendment No. 9

Representative Villarreal offered the following amendment to **CSSB 228**:

Amend **CSSB 228** (House committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS:

SECTION _____. Subsection (g), Section 105.006, Family Code, is amended to read as follows:

(g) The Title IV-D agency shall promulgate and provide forms for a party to use in reporting to the court and ~~[when established, to]~~ the state case registry under Chapter 234 the information required under this section.

SECTION _____. Section 108.001, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by this chapter, the clerk of the court shall transmit to the bureau of vital statistics a certified record of the order rendered in a suit, together with the name and all prior names, birth date, and place of birth of the child ~~[prepared by the petitioner]~~ on a form provided by the bureau. The form shall be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

(d) In a Title IV-D case, the Title IV-D agency may transmit the record and information specified by Subsection (a) to the bureau of vital statistics, with a copy to the clerk of the court on request by the clerk. The record and information are not required to be certified if transmitted by the Title IV-D agency under this subsection.

SECTION _____. Section 108.004, Family Code, is amended to read as follows:

Sec. 108.004. TRANSMITTAL OF FILES ON LOSS OF JURISDICTION. On the loss of jurisdiction of a court under Chapter 155, 159, or 262, the clerk of the court shall transmit to the central registry of the bureau of vital statistics a certified record, on a form provided by the bureau, stating that jurisdiction has been lost, the reason for the loss of jurisdiction, and the name and all previous names, date of birth, and place of birth of the child.

SECTION _____. Subsections (a) and (b), Section 154.186, Family Code, are amended to read as follows:

(a) The obligee, obligor, or a child support agency of this state or another state may send to the employer a copy of the order requiring an employee to provide health insurance coverage for a child or may include notice of the medical support order in an order or writ of withholding sent to the employer in accordance with Chapter 158.

(b) In an appropriate Title IV-D case, the Title IV-D agency of this state or another state shall send to the employer the national medical support notice required under Part D, Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.), as amended. The notice may be used in any other suit in which an obligor is ordered to provide health insurance coverage for a child.

SECTION _____. Section 157.102, Family Code, is amended to read as follows:

Sec. 157.102. CAPIAS OR WARRANT; DUTY OF LAW ENFORCEMENT OFFICIALS. Law enforcement officials shall treat a [the] capias or arrest warrant ordered under this chapter in the same manner as an arrest warrant for a criminal offense and shall enter the capias or warrant in the computer records for outstanding warrants maintained by the local police, sheriff, and Department of Public Safety. The capias or warrant shall be forwarded to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

SECTION _____. Section 157.268, Family Code, is amended to read as follows:

Sec. 157.268. APPLICATION OF CHILD SUPPORT PAYMENT. Child support collected shall be applied in the following order of priority:

- (1) current child support;
- (2) non-delinquent child support owed;
- (3) interest on the principal amounts specified in Subdivisions (4) and (5);
- (4) the principal amount of child support that has not been confirmed and reduced to money judgment;
- (5) the principal amount of child support that has been confirmed and reduced to money judgment; and
- (6) the amount of any ordered attorney's fees or costs, or Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible.

SECTION _____. Subdivision (1), Section 157.311, Family Code, is amended to read as follows:

(1) "Account" means:

(A) any type of a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, money market mutual fund account, certificate of deposit, or any other instrument of deposit, including any accrued interest and dividends, in which an individual, as a signatory or not, has a beneficial ownership either in its entirety or on a shared or multiple party basis, including an account in which the individual has a community or separate property interest ~~[any accrued interest and dividends]~~; and

(B) a life insurance policy in which an individual has a beneficial ownership or liability insurance against which an individual has filed a claim or counterclaim.

SECTION _____. Section 157.314, Family Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If a child support lien notice is delivered to a financial institution with respect to an account of the obligor, the institution shall immediately:

(1) provide the claimant with the last known address of the obligor and disclose to the claimant the amount in the obligor's account at the time of receipt of the notice, before the deduction of any authorized fees; and

(2) notify any other person having an ownership interest in the account that the account has been frozen in an amount not to exceed the amount of the child support arrearage identified in the notice.

(e) On request, a financial institution to which a child support lien notice has been delivered shall provide the claimant with a statement showing deposits to the obligor's account made from the date of receipt of the child support lien notice to the date of receipt of the request for information concerning deposits made to the obligor's account.

SECTION _____. Subsection (a), Section 157.318, Family Code, is amended to read as follows:

(a) A lien is effective until all current support and child support arrearages, including interest, ~~and~~ any costs and reasonable attorney's fees, and any Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid or the lien is otherwise released as provided by this subchapter.

SECTION _____. Section 157.324, Family Code, is amended to read as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN. (a) A person who knowingly pays over, releases, sells, transfers, encumbers, conveys, or otherwise disposes of property subject to a child support lien or ~~;~~ who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court ~~[or administrative order]~~ under this subchapter~~[, or who fails to comply with a notice of levy under this subchapter]~~ is liable to the claimant for the greater of ~~it~~ an amount equal to two times the value of the property paid over, released, sold, transferred, encumbered,

conveyed, or otherwise disposed of or not surrendered or \$5,000, but not to exceed the amount of the child support arrearages for which the lien[, notice of levy,] or foreclosure judgment was issued.

(b) A claimant may recover costs and reasonable attorney's fees incurred in an action under this section.

(c) Any amount paid by a person under this section may not be credited against the child support arrearages owed by the obligor.

SECTION _____. Section 157.327, Family Code, is amended by amending Subsections (b) and (c) and adding Subsection (f) to read as follows:

(b) The notice under this section must:

(1) identify the amount of child support arrearages owing at the time the amount of arrearages was determined or, if the amount is less, the amount of arrearages owing at the time the notice is prepared and delivered to the financial institution; and

(2) direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor that are held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless:

(A) the institution is notified by the claimant that the obligor has paid the arrearages or made arrangements satisfactory to the claimant for the payment of the arrearages;

(B) the obligor or another person files a suit under Section 157.323 requesting a hearing by the court; or

(C) if the claimant is the Title IV-D agency, the obligor has requested an agency review under Section 157.328.

(c) A financial institution that receives a notice of levy under this section may not close an account in which the obligor has an ownership interest, permit a withdrawal from any account the obligor owns, in whole or in part, or pay funds to the obligor so that any amount remaining in the account is less than the amount of the arrearages identified in the notice, plus ordinary monthly [~~any~~] fees, if any, due to the institution and any costs of the levy identified by the claimant.

(f) A financial institution may deduct the fees and costs identified in Subsection (c) from the obligor's assets before paying the appropriate amount to the claimant.

SECTION _____. Section 157.329, Family Code, is amended to read as follows:

Sec. 157.329. MOTION FOR COURT REVIEW OF APPLICABILITY; NO LIABILITY FOR COMPLIANCE WITH NOTICE OF LIEN OR LEVY. (a) Not later than the 10th day after the date of delivery of the notice of child support lien or levy, a financial institution may file a motion with the court for a review of the applicability of the lien or notice of levy to the account at the financial institution. A notice of child support lien or levy remains binding and payment to the claimant shall be made as provided by Section 157.327(b)(2), unless otherwise ordered by the court.

(b) A financial institution that possesses or has a right to an obligor's assets for which a notice of lien or levy has been delivered and that freezes assets subject to a child support lien or timely surrenders the assets or right to assets in accordance with ~~[to]~~ a child support levy ~~[lien claimant]~~ is not liable to the obligor or any other person for the property or rights frozen or surrendered.

SECTION _____. Section 157.330, Family Code, is amended to read as follows:

Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF LEVY. (a) A person who possesses or has a right to property that is the subject of a notice of levy delivered to the person and who refuses or fails to timely surrender the property or right to property that should have been paid or delivered to the claimant on demand is liable to the claimant for the greater of ~~[it]~~ an amount equal to two times the value of the property or right to property that should have been paid or delivered or \$5,000, ~~[not surrendered]~~ but ~~[that does]~~ not to exceed the amount of the child support arrearages for which the notice of levy has been filed.

(b) A claimant may recover costs and reasonable attorney's fees incurred in an action under this section.

(c) Any amount paid by a person under this section may not be credited against the child support arrearages owed by the obligor.

SECTION _____. Subsection (a), Section 158.502, Family Code, is amended to read as follows:

(a) An administrative writ of withholding under this subchapter may be issued by the Title IV-D agency at any time until all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid. The writ issued under this subsection may be based on an obligation in more than one support order.

SECTION _____. Section 158.506, Family Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If a review under this section fails to resolve any issue in dispute, the obligor ~~[is entitled to the remedies provided by Section 158.317 for cases in which a notice of an application for judicial writ of withholding was not received. The obligor]~~ may file a motion with the court to withdraw the administrative writ of withholding and request a hearing with the court not later than the 30th day after receiving notice of the agency's determination. Income withholding may not be interrupted pending a hearing by the court.

(d) If an administrative writ of withholding issued under this subchapter is based on an order of a tribunal of another state that has not been registered under Chapter 159, the obligor may file a motion with an appropriate court in accordance with Subsection (c).

SECTION _____. Section 158.507, Family Code, is amended to read as follows:

Sec. 158.507. ADMINISTRATIVE WRIT TERMINATING WITHHOLDING. An administrative writ to terminate withholding may be issued and delivered to an employer by the Title IV-D agency when all current support,

including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid.

SECTION _____. Subsection (b), Section 231.006, Family Code, is amended to read as follows:

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) ~~[or a child support obligor ineligible to receive payments under Subsection (a-1)]~~ remains ineligible until:

- (1) all arrearages have been paid;
- (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or
- (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

SECTION _____. The heading to Section 231.012, Family Code, is amended to read as follows:

Sec. 231.012. CHILD SUPPORT ~~[COUNTY ADVISORY]~~ WORK GROUP.

SECTION _____. Subsections (a), (b), and (c), Section 231.012, Family Code, are amended to read as follows:

(a) The director of the Title IV-D agency may convene ~~[shall establish]~~ a ~~[county advisory]~~ work group representing public and private entities with an interest in child support enforcement in this state to work with ~~[assist]~~ the director ~~[Title IV-D agency]~~ in developing strategies to improve ~~[and changing]~~ child support enforcement in this state ~~[programs that affect counties. The work group shall consist of at least one of each of the following:~~

- ~~[(1) county judge;~~
- ~~[(2) county commissioner;~~
- ~~[(3) district clerk;~~
- ~~[(4) domestic relations officer;~~
- ~~[(5) associate judge for Title IV-D cases; and~~
- ~~[(6) district court judge].~~

(b) The director of the Title IV-D agency shall appoint the members of the work group after consulting with appropriate public and private entities ~~[the relevant professional or trade associations of the professions that are represented on the work group. The director of the Title IV-D agency shall determine the number of members of the work group and shall designate the presiding officer of the group].~~

(c) The work group shall meet as convened by the director of the Title IV-D agency and consult with:

~~[(1) advise]~~ the director on matters relating to ~~[of the Title IV-D agency of the impact on counties that a proposed]~~ child support enforcement in this state, including the delivery of Title IV-D services ~~[program or a change in a program may have;~~

- ~~[(2) establish a state county child support improvement plan;~~

~~[(3) advise the Title IV-D agency on the operation of the state disbursement unit;~~

~~[(4) plan for monetary incentives for county partnership programs;~~

~~[(5) expand the number of agreements with counties for enforcement services; and~~

~~[(6) work with relevant statewide associations on a model partnership agreement].~~

SECTION _____. Section 231.103, Family Code, is amended by amending Subsection (f) and adding Subsection (g-1) to read as follows:

(f) The state disbursement unit established and operated by the Title IV-D agency under Chapter 234 may collect a monthly service fee of \$3 in each case in which [deducted from] support payments are processed through the unit [in a case for which the Title IV D agency is not providing services].

(g-1) A fee authorized under this section for providing child support enforcement services is part of the child support obligation if the obligor is responsible for the fee, and may be enforced against the obligor through any method available for the enforcement of child support, including contempt.

SECTION _____. Section 233.019, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A child support order issued by a tribunal of another state and filed with an agreed review order as an exhibit to the agreed review order shall be treated as a confirmed order without the necessity of registration under Subchapter G, Chapter 159.

SECTION _____. Subsection (a), Section 234.008, Family Code, is amended to read as follows:

(a) Not [Except as provided by Subsection (e) or (d), not] later than the second business day after the date the state disbursement unit receives a child support payment, the state disbursement unit shall distribute the payment to the Title IV-D agency or the obligee.

SECTION _____. Subchapter A, Chapter 234, Family Code, is amended by adding Section 234.012 to read as follows:

Sec. 234.012. RELEASE OF INFORMATION FROM STATE CASE REGISTRY. Unless prohibited by a court in accordance with Section 105.006(c), the state case registry shall, on request and to the extent permitted by federal law, provide the information required under Sections 105.006 and 105.008 in any case included in the registry under Section 234.001(b) to:

(1) any party to the proceeding;

(2) an amicus attorney;

(3) an attorney ad litem;

(4) a friend of the court;

(5) a guardian ad litem;

(6) a domestic relations office;

(7) a prosecuting attorney or juvenile court acting in a proceeding under

Title 3; or

(8) a governmental entity or court acting in a proceeding under Chapter

(2) In SECTION 16 of the bill (page 8, lines 20 and 21), strike the introductory language and substitute the following:

Section 157.313, Family Code, is amended by amending Subsections (a), (c), and (e) and adding Subsection (f) to read as follows:

(3) In SECTION 16 of the bill, immediately following amended Subsection (e), Section 157.313, Family Code (page 10, between lines 12 and 13), insert the following:

(f) The requirement under Subsections (a)(3) and (4) to provide a social security number, if known, does not apply to a lien notice for a lien on real property.

(4) In SECTION 17 of the bill (page 10, lines 13 and 14), strike the introductory language and substitute the following:

Subsections (a) and (a-1), Section 157.317, Family Code, are amended to read as follows:

(5) In SECTION 17 of the bill, immediately preceding amended Subsection (a-1), Section 157.317, Family Code (page 10, between lines 14 and 15), insert the following:

(a) A child support lien attaches to all real and personal property of an obligor not exempt under the Texas Constitution or other law, including:

(1) an account in a financial institution in which funds are held for the obligor's benefit, regardless of whether the account is in the name of the obligor or in the name of a nominal owner other than the obligor;

(2) a retirement plan, including an individual retirement account; and

(3) the proceeds of a life insurance policy, a claim for negligence or personal injury, or an insurance settlement or award for the claim, due to or owned by the obligor.

(6) In SECTION 18 of the bill, in the introductory language (page 10, line 23), strike "Section 158.214" and substitute "Sections 158.214 and 158.215".

(7) In SECTION 18 of the bill, immediately following added Section 158.214, Family Code (page 11, between lines 8 and 9), insert the following:

Sec. 158.215. WITHHOLDING FROM LUMP-SUM PAYMENTS. (a) In this section, "lump-sum payment" means income in the form of a bonus or commission or an amount paid in lieu of vacation or other leave time. The term does not include an employee's usual earnings or an amount paid as severance pay on termination of employment.

(b) This section applies only to an employer who receives an administrative writ of withholding in a Title IV-D case that requires that an obligor's income be withheld for child support arrearages.

(c) An employer to whom this section applies may not make a lump-sum payment to the obligor in the amount of \$500 or more without first notifying the Title IV-D agency that issued the writ to determine whether all or a portion of the payment should be applied to the child support arrearages.

(d) After notifying the Title IV-D agency in compliance with Subsection (c), the employer may not make the lump-sum payment before the earlier of:

(1) the 10th day after the date on which the employer notified the Title IV-D agency; or

(2) the date on which the employer receives authorization from the Title IV-D agency to make the payment.

(e) If the employer receives a timely authorization from the Title IV-D agency under Subsection (d)(2), the employer may make the payment only in accordance with the terms of that authorization.

(8) Add the following appropriately numbered SECTION to the bill:

SECTION _____. The following provisions of the Family Code are repealed:

- (1) Subsection (a-1), Section 231.006;
- (2) Section 231.011;
- (3) Subsection (d), Section 231.103;
- (4) Section 231.310;
- (5) Subsections (c), (d), and (e), Section 234.008; and
- (6) Chapter 235.

(9) In SECTION 34 of the bill (page 22, line 18), add the following appropriately lettered subdivisions and reletter existing subdivisions in SECTION 34 accordingly:

() The changes in law made by this Act to Sections 157.311, 157.313, 157.317, 157.324, and 157.330, Family Code, apply only to a child support lien or levy notice or suit filed on or after the effective date of this Act. A child support lien or levy notice or suit filed before the effective date of this Act is governed by the law in effect on the date the lien or levy notice or suit was filed, and the former law is continued in effect for that purpose.

() Section 157.314, Family Code, as amended by this Act, and Subsection (f), Section 157.327, Family Code, as added by this Act, apply only to a financial institution that receives a lien notice or notice of levy under those sections on or after the effective date of this Act. A financial institution that receives a lien notice or notice of levy under those sections before the effective date of this Act is governed by the law in effect on the date the lien notice or notice of levy is received, and the former law is continued in effect for that purpose.

() The changes in law made by this Act to Section 158.506, Family Code, apply only to an administrative writ of withholding issued on or after the effective date of this Act. An administrative writ of withholding issued before the effective date of this Act is governed by the law in effect at the time the administrative writ is issued, and the former law is continued in effect for that purpose.

() The changes in law made by this Act to Section 231.103, Family Code, apply only to fees that are incurred on or after the date that the rules adopted in accordance with that section take effect.

(10) Renumber existing SECTIONS of the bill accordingly.

Amendment No. 9 was adopted.

Amendment No. 10

Representative Isett offered the following amendment to **CSSB 228**:

Amend **CSSB 228** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 154.006(a), Family Code, is amended to read as follows:

(a) Unless otherwise agreed in writing or expressly provided in the order or as provided by Subsection (b), the child support order terminates on:

- (1) the marriage of the child;
- (2) the removal of the child's disabilities for general purposes;
- (3) the death of:

(A) the child; or

(B) a parent ordered to pay child support; [~~or~~]

- (4) a finding by a court that the child:

(A) is 18 years of age or older; and

(B) has failed to comply with the enrollment or attendance requirements described by Section 154.002(a); or

- (5) the enlistment of the child in the armed forces of the United States.

SECTION _____. The change in law made by this Act to Section 154.006(a), Family Code, applies to an order for child support regardless of whether the order was rendered before, on, or after the effective date of this Act.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Lucio offered the following amendment to **CSSB 228**:

Amend **CSSB 228** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 153, Family Code, is amended by adding Section 153.015 to read as follows:

Sec. 153.015. ELECTRONIC COMMUNICATION WITH CHILD BY CONSERVATOR. (a) In this section, "electronic communication" means any communication facilitated by the use of any wired or wireless technology via the Internet or any other electronic media. The term includes communication facilitated by the use of a telephone, electronic mail, instant messaging, videoconferencing, or webcam.

(b) If a conservator of a child requests the court to order periods of electronic communication with the child under this section, the court may award the conservator reasonable periods of electronic communication with the child to supplement the conservator's periods of possession of the child. In determining whether to award electronic communication, the court shall consider:

(1) whether electronic communication is in the best interest of the child;

(2) whether equipment necessary to facilitate the electronic communication is reasonably available to all parties subject to the order; and

(3) any other factor the court considers appropriate.

(c) If a court awards a conservator periods of electronic communication with a child under this section, each conservator subject to the court's order shall:

(1) provide the other conservator with the e-mail address and other electronic communication access information of the child;

(2) notify the other conservator of any change in the e-mail address or other electronic communication access information not later than 24 hours after the date the change takes effect; and

(3) if necessary equipment is reasonably available, accommodate electronic communication with the child, with the same privacy, respect, and dignity accorded all other forms of access, at a reasonable time and for a reasonable duration subject to any limitation provided by the court in the court's order.

(d) The court may not consider the availability of electronic communication as a factor in determining child support. The availability of electronic communication under this section is not intended as a substitute for physical possession of or access to the child where otherwise appropriate.

(e) In a suit in which the court's order contains provisions related to a finding of family violence in the suit, including supervised visitation, the court may award periods of electronic communication under this section only if:

(1) the award and terms of the award are mutually agreed to by the parties; and

(2) the terms of the award:

(A) are printed in the court's order in boldfaced, capitalized type;
and

(B) include any specific restrictions relating to family violence or supervised visitation, as applicable, required by other law to be included in a possession or access order.

Amendment No. 11 was adopted.

Amendment No. 12

Representatives Thompson and Dutton offered the following amendment to **CSSB 228**:

Amend **CSSB 228**, immediately following SECTION 3 of the bill (House committee printing page 2, between lines 3 and 4), by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 154.127, Family Code, is amended to read as follows:

Sec. 154.127. PARTIAL TERMINATION OF SUPPORT OBLIGATION. (a) A child support order for more than one child shall provide that, on the termination of support for a child, the level of support for the remaining child or children is in accordance with the child support guidelines.

(b) A child support order is in compliance with the requirement imposed by Subsection (a) if the order contains a provision that specifies:

(1) the events, including a child reaching the age of 18 years or otherwise having the disabilities of minority removed, that have the effect of terminating the obligor's obligation to pay child support for that child; and

(2) the reduced total amount that the obligor is required to pay each month after the occurrence of an event described by Subdivision (1).

Amendment No. 12 was adopted.

Amendment No. 13

On behalf of Representative Dutton, Representative Thompson offered the following amendment to **CSSB 228**:

Amend **CSSB 228** by striking SECTION 10 of the bill, amending Section 157.211, Family Code (house committee printing page 5, line 20, through page 6, line 16), and renumbering the SECTIONS of the bill accordingly.

Amendment No. 13 was adopted.

Amendment No. 14

Representatives Thompson and Dutton offered the following amendment to **CSSB 228**:

Amend **CSSB 228**, immediately following SECTION 3 of the bill (House committee printing page 2, between lines 3 and 4), by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 154.127, Family Code, is amended to read as follows:

Sec. 154.127. PARTIAL TERMINATION OF SUPPORT OBLIGATION. (a) A child support order for more than one child shall provide that, on the termination of support for a child, the level of support for the remaining child or children is in accordance with the child support guidelines.

(b) A child support order is in compliance with the requirement imposed by Subsection (a) if the order contains a provision that specifies:

(1) the events, including a child reaching the age of 18 years or otherwise having the disabilities of minority removed, that have the effect of terminating the obligor's obligation to pay child support for that child; and

(2) the reduced total amount that the obligor is required to pay each month after the occurrence of an event described by Subdivision (1).

Amendment No. 14 was adopted.

Amendment No. 15

Representatives Thompson and Dutton offered the following amendment to **CSSB 228**:

Amend **CSSB 228** by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION _____. Section 157.162, Family Code, is amended by adding Subsection (d) to read as follows:

(d) The court may not find a respondent in contempt of court for failure to pay child support if the respondent appears at the hearing with a copy of the payment record or other evidence satisfactory to the court showing that the respondent is current in the payment of child support.

SECTION _____. Section 157.162(d), Family Code, as added by this Act, applies to a hearing to enforce an order in a suit affecting the parent-child relationship that commences on or after the effective date of this Act. A hearing before the effective date of this Act is governed by the law in effect on the date the hearing commenced, and the former law is continued in effect for that purpose.

Amendment No. 15 was adopted.

CSSB 228, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Puente recorded voting present, not voting.)

SB 653 ON SECOND READING (Heflin - House Sponsor)

SB 653, A bill to be entitled An Act relating to filling certain vacancies on the governing bodies of municipalities.

Amendment No. 1

Representative Gallego offered the following amendment to **SB 653**:

Amend **SB 653** (committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 22.010(a-1), Local Government Code (page 1, lines 9-10), strike "but the person may not vote on the person's own appointment" and substitute "and the person may vote on the person's own appointment".

(2) In SECTION 2 of the bill, in added Section 23.002(b), Local Government Code (page 1, lines 22-23), strike "but the person may not vote on the person's own appointment" and substitute "and the person may vote on the person's own appointment".

(3) In SECTION 3 of the bill, in amended Section 24.026(a), Local Government Code (page 2, lines 7-8), strike "but the person may not vote on the person's own appointment" and substitute "and the person may vote on the person's own appointment".

(4) In SECTION 4 of the bill, in added Section 26.047, Local Government Code (page 2, lines 16-17), strike "but the person may not vote on the person's own appointment" and substitute "and the person may vote on the person's own appointment".

Amendment No. 1 was withdrawn.

SB 653 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HERRERO: Representative Heflin, I looked at your bill, and I just wanted to make sure that I understand this provision correctly. On page 2 of the bill, Section 4, specifically Section 26.047, filling vacancy in the office of mayor, that first clause, it says, "unless otherwise provided by the charter of the municipality or this chapter." Is the presiding authority going to be the charter, then? In other words, if the charter of a municipality states something otherwise, with respect to replacing the vacancy of the office of mayor, then the charter would take precedence?

REPRESENTATIVE HEFLIN: If the city charter provides how to proceed in the event of a vacancy of the mayor, say, due to death, or whatever reason, then that charter would prevail, yes. Failing absent a provision in the charter, then the Texas law, including the Texas Constitution, would rule in this matter.

HERRERO: Right, but just to make sure I understand, and I think you've stated exactly what I understand, which is if there is a provision already within the city's charter that states specifically how to fill a vacancy of the office of the mayor, then that would take precedence, is that correct?

HEFLIN: That would take precedence, yes.

REMARKS ORDERED PRINTED

Representative Herrero moved to print remarks between Representative Heflin and Representative Herrero.

The motion prevailed.

SB 653 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

POSTPONED BUSINESS

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

**CSSB 966 ON SECOND READING
(Van Arsdale - House Sponsor)**

CSSB 966, A bill to be entitled An Act relating to a qualified privilege of a journalist not to testify.

CSSB 966 was read second time earlier today and was postponed until this time.

CSSB 966 - POINT OF ORDER

Representative Riddle raised a point of order against further consideration of **CSSB 966** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The chair sustained the point of order.

CSSB 1204 ON SECOND READING
(Gattis - House Sponsor)

CSSB 1204, A bill to be entitled An Act relating to the reorganization and administration of, and procedures relating to, courts in this state, including procedures for appeals.

CSSB 1204 was read second time earlier today and was postponed until this time.

CSSB 1204 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSSB 1204** under Rule 4, Section 18(b) and (c) of the House Rules on the grounds that the committee meeting minutes are inaccurate.

The chair sustained the point of order.

MAJOR STATE CALENDAR
(consideration continued)

SB 1788 ON SECOND READING
(Madden - House Sponsor)

SB 1788, A bill to be entitled An Act relating to the creation and operation of a state virtual school network to provide education to students through electronic means.

SB 1788 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE ALLEN: Who will have access to this virtual school?

REPRESENTATIVE MADDEN: Ms. Allen, I hope that all public school students within the State of Texas will have access to this. In addition, it will be accessed there for home schoolers, or others who might want to take courses within the network, and we also have access there for out-of-state students, particularly children of our military people throughout the United States and abroad.

ALLEN: So this also goes into private schools, and parochial schools, all schools?

MADDEN: Private schools and parochial schools are not here. The students have to be public school students. There is a method here if they're home schooled, or other students that they can take up to two classes, and they have to pay for those classes, but beyond that, they have to be a public school student.

ALLEN: Is this a virtual voucher bill?

MADDEN: Absolutely not. There is no voucher at all in this. We worked very closely with all of the education groups in the State of Texas to develop this bill. They've all been working with us throughout this whole session, and we're very clear, this is not a voucher in any way, shape, or form. This is a public school education program, providing for virtual education for all the students in the State of Texas.

ALLEN: Will you take an amendment that no vouchers will be added to this bill?

MADDEN: This is a senate bill, there are none in it right now, there is no voucher here, I don't know that I'd need that amendment, but I'm certainly not opposed to taking that amendment. Right now I have an amendment up that says driver's education on it, as soon as we pass that, if you have an amendment, I'll take one that says no vouchers can be added to it, certainly.

Amendment No. 1

Representative Madden offered the following amendment to **SB 1788**:

Amend **SB 1788** in SECTION 1 of the bill, between added Sections 30A.104 and 30A.105, Education Code (house committee report, page 11, between lines 7 and 8), by inserting the following:

Sec. 30A.1041. DRIVER EDUCATION COURSES. (a) A school district, open-enrollment charter school, or public or private institution of higher education may seek approval to offer through the state virtual school network the classroom portion of a driver education and traffic safety course that complies with the requirements for the program developed under Section 29.902.

(b) A school district, open-enrollment charter school, or public or private institution of higher education may not offer through the state virtual school network the laboratory portion of a driver education and traffic safety course.

(c) A driver education and traffic safety course offered in compliance with this section must be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting for a period of 56 hours.

Amendment No. 1 was adopted.

REMARKS ORDERED PRINTED

Representative Escobar moved to print remarks between Representative Allen and Representative Madden.

The motion prevailed.

SB 1788, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 530 ON SECOND READING (Eissler - House Sponsor)

CSSB 530, A bill to be entitled An Act relating to physical activity requirements and physical fitness assessment for certain public school students.

Amendment No. 1

On behalf of Representative Eiland, Representative Eissler offered the following amendment to **CSSB 530**:

Amend **CSSB 530** in SECTION 3 of the bill, in added Section 38.101(a), Education Code (House committee printing, page 4, line 11), by striking "eight" and substituting "12".

Amendment No. 1 was adopted.

Amendment No. 2

On behalf of Representative Eiland, Representative Eissler offered the following amendment to **CSSB 530**:

Amend **CSSB 530** in SECTION 1 of the bill, in amended Subsection (1), Section 28.002, Education Code (House committee printing, page 1, lines 13 and 14), by striking "or through structured activity during a school campus's daily recess [~~—except that the~~" and substituting "[~~or through structured activity during a school campus's daily recess, except that the~~".

Amendment No. 2 was withdrawn.

CSSB 530, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Christian recorded voting no.)

(Speaker in the chair)

**ADDRESS BY REPRESENTATIVE B. COOK
ON A MATTER OF PERSONAL PRIVILEGE**

The chair recognized Representative B. Cook who addressed the house on a matter of personal privilege, speaking as follows:

Thank you, Mr. Speaker and members. I stand before you now for one reason, and one reason only, and that's because I love this Texas house. I love every member in here. I've come to appreciate every different point of view that's expressed here. Members, over the past week's time, I've expressed, both privately and publicly, to the speaker, Speaker Craddick, that it's time for a new speaker of the Texas house. This is very difficult for me to get up and say this, and I've lost a lot of sleep, and I've worried myself silly, and the reality of the fact is I've got to go through with this. I also want to emphasize my strongest conviction that this house must either by rule, or through principled statesmanship, adopt a policy of a three-term limit to the office of the speaker of the house. The consolidation of money, power, and influence is detrimental to this house, and the state, and it must end, and it must end now. I'm a republican who has voted for Speaker Craddick three times, but I will not and cannot support his reelection, and I beg him to step down.

My position is not without cost. I've been threatened, I've had my ability to chair called to question, and I was told as recently as Saturday that they're actively recruiting an opponent to run against me in my district. And to this members, I say, so be it. So be it. To all I say simply, I will not yield. I will not yield to tyranny, bullying, or threats. This body will never realize its potential as long as fear, intimidation, retaliation, and character assassination are allowed to be tolerated. Greatness is never found in leaders who place their self-interests, financial gain, above the public good. This is wrong. I believe it's unethical, and it must be stopped. This session we witnessed a manipulation of the rules in the

legislative process. It appears the budget is being stopped, delayed, and exploited for political gain. I say this is wrong. It appears that we have lost our tradition of a grueling work schedule. We appear to be working at a bill-killing pace.

Now we have the threat that the speaker will use his \$4 million speaker account, or should I add a zero to make it \$40 million, to attack fellow republicans. Now let me tell you this, and I feel better, I did have a good, positive meeting with the speaker today for about an hour, and he told me unequivocally that that would not happen to any member in this body. Any member. And I am very pleased that he has that commitment, that he won't do it and nobody associated. I appreciate that, because I have to tell you, this is hanging over this body in, I believe, a very terrible way, because it is out of bounds; it's an abuse of the office. Mr. Speaker, I regretfully tell you that your actions may force this house to take an historical position. So be it. Mr. Speaker, please consider stepping down. Please don't put this body through 18 months of hell. Your reelection will only result in a bloody, and brutal, and I believe, nonproductive 81st session. Be a statesman.

We need a new direction. Inspired leadership, and a member-driven body. If a call on the speaker is made this session, it will be a referendum on whether we collectively, as leaders, want to continue to be lead by a person who doesn't have the confidence of the body, or whether we dare, or whether we dare to chart a new course, trusting that there are great leaders among us. This body can flourish under a new republican leadership. Release us and submit to the will of the house, please. This is a battle worth fighting. For me, it means risking my political career, and I'm at peace with that. I understand the consequences, but it's still worth fighting. I close with Shakespeare. "We few, we happy few, we band of brothers. For he today who sheds his blood with me, shall be my brother. And gentlemen in England now-a-bed, shall think themselves accurs'd, that they were not here, and hold their manhoods cheap, whiles any speaks, that fought with us." God Bless Texas.

CSSB 766 ON SECOND READING (Gattis - House Sponsor)

CSSB 766, A bill to be entitled An Act relating to the transfer of powers and duties for accident reports from the Department of Public Safety of the State of Texas to the Texas Department of Transportation.

Amendment No. 1

Representative Taylor offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (house committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 550.065, Transportation Code, is amended to read as follows:

Sec. 550.065. RELEASE OF CERTAIN INFORMATION RELATING TO ACCIDENTS. (a) This section applies only to information that is held by an agency that:

(1) receives information from or receives information that relates to a person involved in [the department or another governmental entity and relates to] a motor vehicle accident; or

(2) prepares information relating to a person involved in a motor vehicle accident [reported under this chapter or Section 601.004].

(b) Except as provided by this section, a motor vehicle accident report or information in a motor vehicle accident report that reveals personal information relating to a person involved in a motor vehicle accident, including the person's name, home or employment address, and home or employment telephone number, is confidential and privileged during the 30-day period immediately after the date of the accident as shown on the accident report.

(c) Notwithstanding Subsection (b), a motor vehicle accident report or the information in a motor vehicle accident report held by the agency shall immediately be made available on request to:

(1) a person involved in the motor vehicle accident or a person who is the owner of or a currently recorded lienholder on a vehicle involved in the accident;

(2) a person designated in writing by a person described by Subdivision (1) as the person's representative, the licensed insurance agent of a person described by Subdivision (1), or an insurer that provides coverage for a person involved in the accident or another person under contract with the insurer to provide claim or underwriting information;

(3) an attorney representing the state in anticipation of, in the course of preparing for, or in the course of criminal litigation;

(4) the law enforcement agency that employs a peace officer who investigated the accident and filed the accident report or the information in the report with the agency that holds the information;

(5) the court, in response to a subpoena issued by the court in connection with a pending judicial proceeding that involves the motor vehicle accident;

(6) a radio or television station that holds a license issued by the Federal Communications Commission;

(7) a newspaper that is qualified to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

(8) an agency of this or another state, of a political subdivision of this or another state, or of the United States that is authorized by law to have access to the motor vehicle accident report or information in the accident report in connection with the agency's statutory duties; or

(9) a private investigator, as defined by Section 1702.002, Occupations Code, who holds a license issued under Chapter 1702 of that code.

(d) A publication is not considered to be a newspaper under Subsection (c) if the publication:

(1) is intended primarily for members of a particular profession or occupational group; or

(2) has as its primary purpose:

(A) the distribution of advertising; or

(B) the publication of the names and other personal identifying information of persons involved in motor vehicle accidents.

(e) Except as otherwise provided by this section, a person may access a motor vehicle accident report or information in a motor vehicle accident report during the 30-day period immediately after the date the report is filed only if the person:

(1) presents a valid driver's license or other form of identification that bears the person's photograph and evidence to show the person's status or qualification to have access to the accident report or the information; and

(2) files a written statement, attested to before an officer authorized to administer oaths, in which the person:

(A) recognizes that during the 30-day period immediately after the date the report was filed, the report or the information is confidential and privileged; and

(B) certifies that during that period the report or information will not be:

(i) used in connection with a commercial solicitation of a person involved in the accident; or

(ii) knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in the accident.

(f) As an alternative to requiring compliance with Subsection (e), an agency that holds a motor vehicle accident report that is confidential and privileged may provide a copy of the accident report or the information in the report by electronic means to a third-party vendor under a contract with one or more insurers, but only if:

(1) the contract and the vendor expressly recognize that during the 30-day period immediately after the date the accident report was filed with the agency the report or information in the report is confidential and privileged under this section; and

(2) the vendor provides the agency with a copy of the contract and certifies that during that 30-day period the report or information in the report will not be:

(A) used in connection with a commercial solicitation of a person involved in the accident; or

(B) knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in the accident.

(g) Nothing in this section is intended to prevent the dissemination or publication of news to the general public by a radio station, television station, or newspaper entitled to have access to a motor vehicle accident report or information in an accident report under this section.

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

(1) is an employee of a governmental agency described by Subsection (c) and possesses a motor vehicle accident report or information in an accident report that is confidential and privileged under this section; and

(2) knowingly discloses the accident report or the information to a person who is not entitled to have access to the report or the information.

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

(1) knows that the person is not entitled under this section to have access to a motor vehicle accident report or information in an accident report that is confidential and privileged under this section; and

(2) accesses or attempts to access the accident report or the information.

(j) A person commits an offense if the person knowingly uses a motor vehicle accident report or information in the accident report that is confidential and privileged under this section in a manner that violates the person's written statement filed under Subsection (e)(2).

(k) A violation of Subsection (h) constitutes official misconduct. An offense under that subsection is a Class B misdemeanor.

(l) An offense under Subsection (i) or (j) is:

(1) a Class B misdemeanor if the person convicted under this section has not previously been convicted of an offense under this section;

(2) a Class A misdemeanor if the person convicted under this section has previously been convicted of one offense under this section;

(3) a state jail felony if the person convicted under this section has previously been convicted of two offenses under this section; or

(4) a felony of the third degree if the person convicted under this section has been convicted of three or more offenses under this section.

(m) After the expiration of the 30-day limitation provided by this section, and on ~~[Except as provided by Subsection (e), the information is privileged and for the confidential use of:~~

~~(1) the department; and~~

~~(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.~~

~~[(e) On] written request and payment of any required fee, the agency that holds a motor vehicle accident report or information in a motor vehicle accident report [department or the governmental entity] shall release the accident report or the information to:~~

~~(1) a person or [an] entity described by Subsection (c) [(b)]; or~~

~~(2) [the law enforcement agency that employs the peace officer who investigated the accident and sent the information to the department;~~

~~[(3) the court in which a case involving a person involved in the accident is pending if the report is subpoenaed; or~~

~~[(4)] a person who provides the agency [department or governmental entity] with two or more of the following:~~

~~(A) the date of the accident;~~

~~(B) the specific address or the highway or street where the accident occurred; or~~

~~(C) the name of any person involved in the accident.~~

(n) ~~[(d)]~~ The fee for a copy of a motor vehicle accident ~~[the]~~ report or motor vehicle accident information is \$6 or the actual cost of the preparation of the copy, whichever is less. The copy may be certified by the agency that holds the

accident report [~~department~~] or the information [~~governmental entity~~] for an additional fee of \$2. The agency [~~department or the governmental entity~~] may issue a certification that no report or information is on file for a fee of \$6.

Amendment No. 1 was adopted.

CSSB 766, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

MESSAGE FROM THE SENATE

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

SB 1339 ON SECOND READING (Chisum - House Sponsor)

SB 1339, A bill to be entitled An Act relating to allowing money in the disaster contingency fund to be used to provide assistance to producers of agricultural products affected by a disaster caused by severe drought or wildfire.

SB 1339 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 101 ON SECOND READING (Morrison, Branch, Woolley, Eissler, and Goolsby - House Sponsors)

CSSB 101, A bill to be entitled An Act relating to the automatic admission of undergraduate students to general academic teaching institutions.

Representative Morrison moved to postpone consideration of **CSSB 101** until 10 a.m. tomorrow.

The motion prevailed.

(Chisum in the chair)

SB 1436 ON SECOND READING (Creighton - House Sponsor)

SB 1436, A bill to be entitled An Act relating to the transfer of responsibility for the National Flood Insurance Program from the Texas Commission on Environmental Quality to the Texas Water Development Board and the administration and funding of the program.

Amendment No. 1

Representative Ortiz offered the following amendment to **SB 1436**:

Amend **SB 1436** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter E, Chapter 88, Education Code, is amended by adding Section 88.503 to read as follows:

Sec. 88.503. SPATIAL REFERENCE CENTER. (a) The board may create and operate a spatial reference center at Texas A&M University–Corpus Christi for the purpose of:

(1) facilitating the federal height modernization project for the state;
(2) conducting basic and applied research regarding elevation and geodetic and vertical datums in the state;

(3) collecting geodetic data for state mapping and control; and
(4) establishing and maintaining an official digital spatial reference system for the state, in coordination with:

(A) the United States National Geodetic Survey;

(B) the National Oceanic and Atmospheric Administration; and

(C) the Texas Water Development Board.

(b) The board shall adopt rules relating to the operation of the spatial reference center.

(c) The spatial reference center may solicit and accept gifts, grants, and appropriations for the purposes of this section.

Amendment No. 1 was adopted.

SB 1436, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1619 ON SECOND READING

(Morrison - House Sponsor)

SB 1619, A bill to be entitled An Act relating to the confidentiality of certain employment information, including unemployment compensation information; providing criminal penalties.

SB 1619 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1731 ON SECOND READING

(Isett, Rose, Delisi, and Zerwas - House Sponsors)

SB 1731, A bill to be entitled An Act relating to consumer access to health care information and consumer protection for services provided by or through health benefit plans, hospitals, ambulatory surgical centers, birthing centers, and other health care facilities; providing penalties.

Amendment No. 1

Representative Isett offered the following amendment to **SB 1731**:

Amend **SB 1731** (House Committee Report) as follows:

(1) In SECTION 5 of the bill, in added Subsection (d), Section 101.352, Occupations Code (page 12, lines 14 and 15), strike "before discharging the patient from the emergency department or hospital" and substitute "not later than the 10th business day after the request or before discharging the patient from the emergency department or hospital, whichever is later".

(2) In SECTION 8 of the bill, in Subparagraph (xi), Paragraph (C), Subdivision (3), Subsection (b), Section 843.155, Insurance Code (page 18, line 27), following the semicolon, insert "and".

(3) In SECTION 8 of the bill (page 19, lines 2 through 4), strike Subparagraphs (xiii) and (xiv), Paragraph (C), Subdivision (3), Subsection (b), Section 843.155, Insurance Code.

(4) In SECTION 9 of the bill, strike Subparagraphs (xi) through (xiv), Paragraph (C), Subdivision (3), Subsection (b), Section 1301.009, Insurance Code (page 20, lines 21 through 27), and substitute the following:

(xi) the credentials of physicians who are preferred providers;
and

(xii) the number of preferred providers.

(5) In SECTION 10 of the bill, in added Subsection (d), Section 1456.003, Insurance Code (page 25, line 1), strike "Any explanation" and substitute "Along with any explanation".

(6) In SECTION 10 of the bill, in added Subsection (d), Section 1456.003, Insurance Code (page 25, line 4), between "amount" and "shall also", insert ", a health benefit plan".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Isett offered the following amendment to **SB 1731**:

Amend **SB 1731** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 241.025, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (d), to the extent that money received from the fees collected under this chapter exceeds the costs to the department to conduct the activity for which the fee is imposed, the department may use the money to administer Chapter 324 and similar laws that require the department to provide information related to hospital care to the public. The department may not consider the costs of administering Chapter 324 or similar laws in adopting a fee imposed under this section.

Amendment No. 2 was adopted.

REMARKS ORDERED PRINTED

Representative Pitts moved to print the personal privilege address by Representative B. Cook.

The motion prevailed.

SB 1731 - (consideration continued)

(Flynn in the chair)

Amendment No. 3

Representative Delisi offered the following amendment to **SB 1731**:

Amend **SB 1731** as follows:

On page 28, line five after "the" and before "commissioner" insert "governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and house of representatives having primary jurisdiction over the health benefit plans, and the"

Amendment No. 3 was adopted.

Amendment No. 4

Representative Y. Davis offered the following amendment to **SB 1731**:

Amend **SB 1731** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 153.076(a), Family Code, is amended to read as follows:

(a) The court shall order that each conservator of a child has a duty to inform the other conservator of the child in a timely manner of significant information concerning the health, education, and welfare of the child, including information related to whether the child is covered by a health benefits plan.

SECTION _____. Subchapter A, Chapter 1504, Insurance Code, is amended by adding Section 1504.004 to read as follows:

Sec. 1504.004. PARENT'S ACCESS TO COVERAGE STATUS INFORMATION. (a) Notwithstanding any other law, a health benefit plan issuer shall provide a parent of a child, regardless of the parent's conservatorship status, information regarding the status of the child's health benefits coverage if the parent provides proof of parenthood. The commissioner may adopt rules under Section 1504.002 to implement this subsection, including rules related to requirements for establishing proof of parenthood.

(b) Section 843.007 does not prohibit a health benefit plan issuer from disclosing information described by Subsection (a).

Amendment No. 4 was adopted.

(Speaker in the chair)

Amendment No. 5

Representative Thompson offered the following amendment to **SB 1731**:

Amend **SB 1731** by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 1506.007, Insurance Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) A health benefit plan issuer, employer, or other person who is required to provide notice to an individual of the individual's ability to continue coverage in accordance with Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.) (COBRA), shall, at the time that notice is required, also provide notice to the individual of the availability of coverage under the pool.

(a-2) A health benefit plan issuer who is providing coverage to an individual in accordance with Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.) (COBRA), shall, not later than the 45th day before the date that coverage expires, notify the individual of the availability of coverage under the pool.

Amendment No. 5 was adopted.

Amendment No. 6

Representative McReynolds offered the following amendment to **SB 1731**:

Amend **SB 1731** (house committee printing) as follows:

(1) Strike SECTION 2 of the bill (page 9, lines 10 through 23) and substitute the following:

SECTION 2. Section 108.002, Health and Safety Code, is amended by amending Subdivisions (1), (3), (5), (6), (7), (8), (10), (12), (16), (17), (20), (21), and (22) and adding Subdivisions (4-a), (8-a), (11-a), (14-a), (17-a), and (21-a) to read as follows:

(1) "Accurate and consistent data" means data that has been edited by the department [~~council~~] and subject to provider validation and certification.

(3) "Certification" means the process by which a provider confirms the accuracy and completeness of the data set required to produce the public use data file in accordance with department [~~council~~] rule.

(4-a) "Commission" means the Health and Human Services Commission.

(5) "Confidential data" means data that is made confidential under this chapter, other state law, or federal law [~~"Council" means the Texas Health Care Information Council~~].

(6) "Data" means the material or collection of facts on which a discussion or an inference is based [~~information collected under Section 108.0065 or 108.009 in the form initially received~~].

(7) "Department" means the [~~Texas~~] Department of State Health Services.

(8) "Edit" means to use an electronic standardized process developed and implemented by the department [~~council rule~~] to identify potential errors and mistakes in data elements by reviewing data fields for the presence or absence of data and the accuracy and appropriateness of data.

(8-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(10) "Health care facility" means:

(A) a hospital;

(B) an ambulatory surgical center licensed under Chapter 243;

(C) a chemical dependency treatment facility licensed under Chapter 464;

(D) a renal dialysis facility;

(E) a birthing center;

(F) a rural health clinic; ~~or~~

(G) a federally qualified health center as defined by 42 U.S.C.

Section 1396d(l)(2)(B); or

(H) a free-standing imaging center.

(11-a) "Health practitioner" means an individual licensed under the laws of this state to practice chiropractic, dentistry, nursing, podiatry, or psychology under Title 3, Occupations Code.

(12) "Hospital" means a public, for-profit, or nonprofit institution licensed or owned by this state that is a general or special hospital, private mental hospital, ~~chronic disease hospital,~~ or other type of hospital.

(14-a) "Program director" means the primary department employee responsible for performing the functions and exercising the authority of the program director and includes the program director's designee.

(16) "Provider quality" means the extent to which a provider renders care that, within the capabilities of modern health profession disciplines ~~[medicine]~~, obtains for patients ~~[medically]~~ acceptable health outcomes and prognoses, after risk ~~[severity]~~ adjustment.

(17) "Public use data" means patient level data relating to individual hospitalizations that has ~~[not been summarized or analyzed, that has]~~ had patient identifying information removed, that identifies physicians and health practitioners only by use of uniform physician or health practitioner identifiers, and that is ~~[severity and risk adjusted,]~~ edited~~;~~ and verified for accuracy and consistency. Public use data may exclude some data elements submitted to the department ~~[council]~~. Public use data does not include confidential data.

(17-a) "Risk adjustment" means a process applied to data to allow for statistical comparisons between providers to statistically control for different risk factors in patients that may affect their health care outcomes.

(20) "Uniform patient identifier" means an identifier ~~[a number]~~ assigned by the department ~~[council]~~ to an individual patient and composed of numeric, alpha, or alphanumeric characters.

(21) "Uniform physician or health practitioner identifier" means an identifier ~~[a number]~~ assigned by the department ~~[council]~~ to an individual physician or health practitioner and composed of numeric, alpha, or alphanumeric characters.

(21-a) "Utilization report" means a provider level report of aggregate data prepared to the specifications of a requestor in which the state expresses no finding or opinion.

(22) "Validation" means the process that ~~[by which a provider]~~ verifies the accuracy and completeness of data and corrects any errors identified before certification in accordance with department ~~[council]~~ rule.

(2) Strike SECTION 3 of the bill (page 9, line 24, through page 10, line 4) and substitute the following:

SECTION 3. Section 108.009, Health and Safety Code, is amended to read as follows:

Sec. 108.009. DATA SUBMISSION AND COLLECTION. (a) The department [council] may collect, and, except as provided by Subsections (c) and (d), providers shall submit to the department [council] or another entity as determined by the department [council], all data required by this section or by rule. The data shall be collected according to uniform submission formats, coding systems, and other technical specifications necessary to make the incoming data substantially valid, consistent, compatible, and manageable using electronic data processing, if available.

(b) The department [council] shall recommend [adopt] rules to implement the data submission requirements imposed by Subsection (a) in appropriate stages to allow for the development of efficient systems for the collection and submission of the data. A rule [adopted by the council] that requires submission of a data element that, before adoption of the rule, was not required to be submitted may not take effect before the 90th day after the date the rule is adopted and must take effect not later than the first anniversary after the date the rule is adopted.

(c) A rural provider may, but is not required to, provide the data required by this chapter. A hospital may, but is not required to, provide the data required by this chapter if the hospital:

(1) is exempt from state franchise, sales, ad valorem, or other state or local taxes; and

(2) does not seek or receive reimbursement for providing health care services to patients from any source, including:

(A) the patient or any person legally obligated to support the patient;

(B) a third-party payor; or

(C) Medicaid, Medicare, or any other federal, state, or local program for indigent health care.

(d) The department [council] may not collect data from individual physicians or health practitioners or from an entity that is composed entirely of physicians or health practitioners and that is a professional association organized under the Texas Professional Association Act (Article 1528f, Vernon's Texas Civil Statutes) or formed under the Texas Professional Association Law, as described by Section 1.008, Business Organizations Code, a limited liability partnership organized under Section 3.08, Texas Revised Partnership Act (Article 6132b-3.08, Vernon's Texas Civil Statutes), or described by Subchapter J, Chapter 152, Business Organizations Code, or a limited liability company organized under the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes) or formed under the Texas Limited Liability Company Law, as described by Section 1.008, Business Organizations Code, except to the extent the entity owns and operates a health care facility in this state. This subsection does not prohibit the release of data about physicians or health practitioners using uniform physician or health practitioner identifiers that has been collected from a health care facility under this chapter.

~~[(e) The council shall establish the department as the single collection point for receipt of data from providers. With the approval of the council and the board, the department may transfer collection of any data required to be collected by the department under any other law to the statewide health care data collection system.]~~

(f) The department [council] may not require providers to submit data more frequently than quarterly, but providers may submit data on a more frequent basis.

(g) The department may [council shall] coordinate data collection with the data collection formats used by federally qualified health centers. To satisfy the requirements of this chapter:

(1) a federally qualified health center shall submit annually to the department [council] a copy of the Medicaid cost report of federally qualified health centers; and

(2) a provider receiving federal funds under 42 U.S.C. Section 254b, 254c, or 256 shall submit annually to the department [council] a copy of the Bureau of Common Reporting Requirements data report developed by the United States Public Health Service.

(h) The department [council] shall coordinate data collection with the data submission formats used by hospitals and other providers. The department [council] shall accept data in the format developed by the American National Standards Institute [National Uniform Billing Committee (Uniform Hospital Billing Form UB 92) and HCFA 1500] or its [their] successors or other nationally [universally] accepted standardized format or forms that hospitals and other providers use for other complementary purposes.

(i) The department [council] shall recommend rules on [develop by rule] reasonable alternate data submission procedures for providers that do not possess electronic data processing capacity to create electronic claims.

(k) The department [council] shall collect health care data elements relating to payer type, the racial and ethnic background of patients, and the use of health care services by consumers. The council shall prioritize data collection efforts on inpatient and outpatient surgical and radiological procedures from hospitals, ambulatory surgical centers, and free-standing radiology centers.

(m) To the extent feasible, the department [council] shall obtain from public records the information that is available from those records.

(o) A provider of a health benefit plan shall annually submit to the department [council] aggregate data by service area required by the Health Plan Employer Data Information Set (HEDIS) data as operated by the National Committee for Quality Assurance. The department [council] may approve the submission of data in accordance with other methods generally used by the health benefit plan industry. If the Health Plan Employer Data Information Set does not generally apply to a health benefit plan, the department [council] shall require submission of data in accordance with other methods. This subsection does not relieve a health care facility that provides services under a health benefit plan

from the requirements of this chapter. Information submitted under this section is subject to Sections ~~[Section]~~ 108.011 and 108.013(k), (l), (m), and (n), but is not subject to Section 108.010.

(3) Add the following appropriately numbered SECTIONS to the bill and renumber the subsequent SECTIONS of the bill as appropriate:

SECTION _____. The heading to Chapter 108, Health and Safety Code, is amended to read as follows:

CHAPTER 108. TEXAS HEALTH CARE INFORMATION COLLECTION
PROGRAM ~~[COUNCIL]~~

SECTION _____. Section 108.001, Health and Safety Code, is amended to read as follows:

Sec. 108.001. TEXAS HEALTH CARE INFORMATION COLLECTION PROGRAM ~~[CREATION OF COUNCIL]~~. The Department of State ~~[Texas]~~ Health Services ~~[Care Information Council]~~ shall administer this chapter and report to the governor, the legislature, and the public.

SECTION _____. Chapter 108, Health and Safety Code, is amended by adding Section 108.0055 to read as follows:

Sec. 108.0055. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER. The executive commissioner shall adopt rules necessary to administer this chapter.

SECTION _____. Section 108.006, Health and Safety Code, is amended to read as follows:

Sec. 108.006. POWERS AND DUTIES OF DEPARTMENT ~~[COUNCIL]~~.
(a) The department ~~[council]~~ shall develop a statewide health care data collection system to collect health care charges, utilization data, provider quality reports ~~[data]~~, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care. The department ~~[council]~~ shall:

(1) direct the collection, dissemination, and analysis of data under this chapter;

(2) ~~[contract with the department to collect the data under this chapter;~~
~~(3)]~~ adopt policies and recommend rules necessary to carry out this chapter, including rules concerning data collection requirements;

(3) ~~(4)]~~ build on and not duplicate other data collection required by state or federal law~~[, by an accreditation organization,]~~ or by executive commissioner ~~[board]~~ rule;

~~(4) (5)]~~ working with appropriate agencies, review public health data collection programs in this state and recommend, where appropriate, consolidation of the programs and any legislation necessary to effect the consolidation or obtain data collected by other state agencies;

(5) ~~(6)]~~ assure that public use data is made available and accessible to interested persons;

(6) recommend rules regarding ~~(7) prescribe by rule]~~ the process for providers to submit data consistent with Section 108.009;

(7) ~~(8) adopt by rule and implement a methodology to collect and disseminate data reflecting provider quality in accordance with Section 108.010;~~

~~(9)~~ make annual reports to the legislature, the governor, and the public on:

(A) the charges and rate of change in the charges for health care services in this state;

(B) the effectiveness of the department [~~council~~] in carrying out the legislative intent of this chapter;

(C) if applicable, any recommendations on the need for further legislation; and

(D) the quality and effectiveness of health care and access to health care for all citizens of this state;

(8) ~~(10)~~ develop an annual work plan and establish priorities to accomplish its duties;

(9) ~~(11)~~ provide consumer education on the interpretation and understanding of the public use data or provider quality reports [~~data~~] before the data or reports are [~~is~~] disseminated to the public;

(10) ~~(12)~~ work with the commission [~~Health and Human Services Commission~~] and each health and human services agency that administers a part of the state Medicaid program to avoid duplication of expenditures of state funds for computer systems, staff, or services in the collection and analysis of data relating to the state Medicaid program; and

(11) provide data and ~~[(13) work with the Department of Information Resources in developing and implementing the statewide health care data collection system and maintain consistency with Department of Information Resources standards; and~~

~~[(14) develop and implement a health care]~~ information [~~plan~~] to be used by the department to:

(A) support public health and preventative health initiatives;

(B) assist in the delivery of primary and preventive health care services;

(C) facilitate the establishment of appropriate benchmark data to measure performance improvements;

(D) establish and maintain a systematic approach to the collection, storage, and analysis of health care data for longitudinal, epidemiological, and policy impact studies; and

(E) develop and use system-based protocols to identify individuals and populations at risk.

(b) The department [~~council~~] may recommend~~[-~~

~~[(1) employ or contract with the department to employ an executive director and other staff, including administrative personnel, necessary to comply with this chapter and rules adopted under this chapter;~~

~~[(2) engage professional consultants as it considers necessary to the performance of its duties;~~

~~[(3) adopt] rules clarifying which health care facilities must provide data under this chapter[-; and~~

~~[(4) apply for and receive any appropriation, donation, or other funds from the state or federal government or any other public or private source, subject to Section 108.015 and limitations and conditions provided by legislative appropriation].~~

(c) The department [council] may not establish or recommend rates of payment for health care services.

~~[(d) The council may not take an action that affects or relates to the validity, status, or terms of an interagency agreement or a contract with the department without the board's approval.]~~

(e) In the collection of data, the department [council] shall consider the research and initiatives being pursued by the United States Department of Health and Human Services, the National Committee for Quality Assurance, and the Joint Commission on Accreditation of Healthcare Organizations to reduce potential duplication or inconsistencies. The executive commissioner [council] may not adopt rules that conflict with or duplicate any federally mandated data collection programs or requirements of comparable scope.

(f) The department [council] shall recommend rules on [~~prescribe by rule~~] a public use data element list [~~file minimum data set~~] that maintains patient confidentiality and establishes data accuracy and consistency.

(g) The public use data element list [~~file minimum data set~~] as defined by [council] rule is subject to annual review by the department [council ~~with the assistance of the advisory committee under Section 108.003(g)(5). The purpose of the review is~~] to evaluate requests to modify the existing public use [~~minimum~~] data element list [~~set~~] and editing process of those data elements. A decision to modify the public use [~~minimum~~] data element list [~~set~~] by the addition or deletion of data elements shall include consideration of the value of the specific data to be added or deleted and the technical feasibility of establishing data accuracy and consistency. The department [council] may also consider the costs to the department [council] and providers associated with modifying the public use [~~minimum~~] data element list [~~set~~].

(h) In accordance with Sections 108.013(k), (l), (m), and (n) and [~~Section~~] 108.0135, the department [council] may release data collected under Section 108.009 that is not included in the public use data element list [~~file minimum data set~~] established under this chapter [~~Subsection (f)~~].

SECTION _____. Section 108.007, Health and Safety Code, is amended to read as follows:

Sec. 108.007. REVIEW POWERS. (a) The [~~council, through the~~] department, [~~and~~] subject to reasonable rules and guidelines, may:

(1) inspect documents and records used by data sources that are required to compile data and reports; and

(2) compel providers to produce accurate documents and records.

(b) The department [council] may enter into a memorandum of understanding with a state agency[~~, including the division of the Health and Human Services Commission responsible for the state Medicaid program,~~] or with a school of public health or another institution of higher education[~~;~~] to share

data and expertise, to obtain data for the department [council], or to make data available to the department [council]. An agreement entered into under this subsection must protect patient confidentiality.

SECTION _____. Chapter 108, Health and Safety Code, is amended by adding Section 108.0095 to read as follows:

Sec. 108.0095. CHANGE IN OWNERSHIP BY ENTITY REQUIRED TO SUBMIT DATA. An entity that acquires, by merger, acquisition, or other transfer, ownership of a health care facility or an organization that owns or operates a health benefit plan that is required to submit data under this chapter shall report the change in ownership to the department.

SECTION _____. Section 108.010, Health and Safety Code, is amended to read as follows:

~~Sec. 108.010. [COLLECTION AND] DISSEMINATION OF PROVIDER QUALITY REPORTS [DATA].~~ (a) Subject to Section 108.009, the department [council] shall gather [collect] data reflecting provider quality and shall produce provider quality reports based on a methodology and review process established through the executive commissioner's [council's] rulemaking process. The methodology shall identify and measure quality standards and adhere to any federal mandates.

~~[(b) The council shall study and analyze initial methodologies for obtaining provider quality data, including outcome data.]~~

(c) The department [council] shall test each initial provider quality report [the] methodology for a period of time to be determined by the department [by collecting provider quality data for one year, subject to Section 108.009]. This requirement to test a methodology applies only to methodologies that have not previously been used by the department. The department [council] may test using pilot methodologies. Any [After collecting provider quality data for one year, the council shall report findings applicable to a provider to that provider and allow the provider to review and comment on the initial provider quality data applicable to that provider. The council shall verify the accuracy of the data during this review and revision process. After the review and revision process,] provider quality [data for subsequent] reports shall be published and made available to the public, on a time schedule the department [council] considers appropriate.

(d) If the department [council] determines that a provider quality report [data] to be published under Subsection (c) does not provide the intended result or is inaccurate or inappropriate for dissemination, the department [council] is not required to publish or release the report [data or reports based in whole or in part on the data]. This subsection does not affect the release of public use data in accordance with Section 108.011 or utilization reports requested under Chapter 552, Government Code [the release of information submitted under Section 108.009(c)].

(e) The department shall allow [council shall adopt rules allowing] a provider to submit concise written comments regarding any specific provider quality report [data] to be released concerning the provider. The department [council] shall make the comments available to the public at the department [office of the council] and in an electronic form accessible through the Internet.

The comments shall be attached to any public release of a provider quality report [data]. Providers shall submit the comments to the department [council] to be attached to the public release of a provider quality report [data] in the same format as the provider quality report [data] that is to be released.

(f) The methodology adopted by the department [council] for measuring quality shall include one or more adjustment methods, such as case-mix qualifiers, risk adjustment factors, severity adjustment factors, adjustments for medical education and research, or [and] any other factors necessary to accurately reflect provider quality.

(g) In addition to the requirements of this section, any release of provider quality reports [data] shall comply with Section 108.011(f) [~~Sections 108.011(e) and (f)~~].

(h) A provider quality [data] report may not identify an individual physician or health practitioner by name, but must identify the physician by the uniform physician or health practitioner identifier designated by the department [council] under Section 108.011(c).

(i) The department may [~~council shall~~] release utilization reports without the review and comment by any provider [~~quality data in an aggregate form without uniform physician identifiers when:~~

~~(1) the data relates to providers described by Section 108.0025(1); or~~

~~(2) the cell size of the data is below the minimum size established by council rule that would enable identification of an individual patient or physician].~~

SECTION _____. Section 108.011, Health and Safety Code, is amended to read as follows:

Sec. 108.011. DISSEMINATION OF PUBLIC USE DATA AND DEPARTMENT [COUNCIL] PUBLICATIONS. (a) The department [council] shall promptly provide public use data and data collected in accordance with Section 108.009(o) to those requesting it. The public use data does not include [~~provider quality data prescribed by Section 108.010 or~~] confidential data prescribed by Section 108.013.

(b) Subject to the restrictions on access to department [council] data prescribed by Section [~~Sections 108.010 and~~] 108.013, and using the public use data and other data, records, and matters of record available to it, the department [council] shall prepare and issue reports to the governor, the legislature, and the public as provided by this section and Section 108.006(a). The department [council] must issue the reports at least annually.

(c) Subject to the restrictions on access to department [council] data prescribed by Section [~~Sections 108.010 and~~] 108.013, the department [council] shall use public use data to prepare and issue reports that provide information relating to providers, such as the incidence rate of selected medical or surgical procedures. The reports must provide the data in a manner that identifies individual providers, including individual physicians, and that identifies and compares data elements for all providers. Individual physicians or health practitioners may not be identified by name, but shall be identified by uniform

physician or health practitioner identifiers. The department ~~[council by rule]~~ shall recommend rules and designate the characters to be used as uniform physician or health practitioner identifiers.

(c-1) The department ~~[council]~~ shall use public use data to prepare and issue reports that provide information for review and analysis by the commission ~~[Health and Human Services Commission]~~ relating to services that are provided in a niche hospital, as defined by Section 105.002, Occupations Code, and that are provided by a physician with an ownership interest in the niche hospital.

(c-2) Subsection (c-1) does not apply to an ownership interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

(d) The department ~~[council]~~ shall adopt procedures to establish the accuracy and consistency of the public use data before releasing the public use data to the public.

(e) If public use data is requested from the department ~~[council]~~ about a specific provider, the department ~~[council]~~ shall notify the provider about the release of the data. This subsection does not authorize the provider to interfere with the release of that data.

(f) A report issued by the department ~~[council]~~ shall include a reasonable review ~~[and comment]~~ period for the affected providers before public release of the report.

(g) The department ~~[council]~~ shall provide a process ~~[adopt rules]~~ allowing a provider to submit concise written comments regarding any specific public use data to be released concerning the provider. The department ~~[council]~~ shall make the comments available to the public ~~[and the office of the council]~~ and in an electronic form accessible through the Internet. The comments shall be attached to any public release of the public use data. Providers shall submit the comments to the department ~~[council]~~ to be attached to the public release of public use data in the same format as the public use data that is to be released.

(h) Media devices ~~[Tapes]~~ containing public use data and provider quality reports that are released to the public must include general consumer education material, including an explanation of the benefits and limitations of the information provided in the public use data and provider quality reports.

(i) The department ~~[council]~~ shall release public use data ~~[in an aggregate form]~~ without uniform physician or health practitioner identifiers when:

(1) the data relates to providers described by Section 108.0025(1); or

(2) the ~~[cell size of the]~~ data ~~[is below the minimum size established by council rule that]~~ would enable easy identification of an individual patient, ~~[or]~~ physician, or health practitioner when combined with other data elements from the public use data element list.

(j) Notwithstanding Section 552.021 or 552.221, Government Code, the department is not required to make data available or produce data for inspection or duplication under Chapter 552, Government Code, until the program director has verified the data as reasonably accurate.

SECTION _____. Section 108.012, Health and Safety Code, is amended to read as follows:

Sec. 108.012. COMPUTER ACCESS TO DATA. (a) The department [~~council~~] shall provide a means for computer [~~computer to computer~~] access to the public use data. All data and reports shall maintain patient confidentiality as provided by Section 108.013.

(b) The department [~~council~~] may charge a person requesting public use data or data used in provider quality reports [~~data~~] a fee for the data. The fees may reflect the quantity of information provided and the expense incurred by the department [~~council~~] in collecting and providing the data [~~and shall be set at a level that will raise revenue sufficient for the operation of the council. The council may not charge a fee for providing public use data to another state agency~~].

SECTION _____. Section 108.013, Health and Safety Code, is amended to read as follows:

Sec. 108.013. CONFIDENTIALITY AND GENERAL ACCESS TO DATA. (a) The data received by the department [~~council~~] shall be used by the department [~~council~~] for the benefit of the public. [~~Subject to specific limitations established by this chapter and council rule, the council shall make determinations on requests for information in favor of access.~~]

(b) The department [~~council by rule~~] shall designate the characters to be used as uniform patient and physician or health practitioner identifiers. The basis for assignment of the characters and the manner in which the characters are assigned are confidential.

(c) Unless specifically authorized by this chapter, the department [~~council~~] may not release and a person or entity may not gain access to any data:

(1) that could reasonably be expected to reveal the identity of a patient;
(2) that could reasonably be expected to reveal the identity of a physician or health practitioner;

(3) disclosing provider discounts or differentials between payments and billed charges;

(4) relating to actual payments to an identified provider made by a payer; or

(5) submitted to the department [~~council~~] in a uniform submission format that is not included in the public use data element list described by [~~set established under~~] Sections 108.006(f) and (g), except in accordance with Subsections (k), (l), (m), and (n) and Section 108.0135.

(d) All data collected and used by the department [~~and the council~~] under this chapter is subject to the confidentiality provisions and criminal penalties of:

(1) Section 311.037;

(2) Section 81.103; and

(3) Section 159.002, Occupations Code.

(e) Data on patients and compilations produced from the data collected that identify patients are not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or

(2) admissible in any civil, administrative, or criminal proceeding.

(f) Data on physicians or health practitioners and compilations produced from the data collected that identify physicians or health practitioners are not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or

(2) admissible in any civil, administrative, or criminal proceeding.

(g) The department ~~[council]~~ may not release data elements in a manner that will reveal the identity of a patient. The department ~~[council]~~ may not release data elements in a manner that will reveal the identity of a physician or health practitioner.

(h) Subsections (c) and (g) do not prohibit the release of a uniform physician or health practitioner identifier in conjunction with associated public use data in accordance with Section 108.011 or a provider quality report in accordance with Section 108.010.

(i) Notwithstanding any other law, the ~~[council and the]~~ department may not provide information made confidential by this section to any other agency of this state.

(j) The department ~~[council]~~ shall recommend a ~~[by]~~ rule to ~~[with the assistance of the advisory committee under Section 108.003(g)(5),]~~ develop and implement a mechanism to comply with Subsections (c)(1) and (2).

(k) The department may disclose data collected under this chapter that is not included in public use data to any program within the department upon review and approval by the institutional or other review board established under Section 108.0135. This subsection does not authorize disclosure of physician and health care practitioner identifying data.

(l) The department shall implement safeguards to ensure that the department maintains the confidentiality of confidential data in the possession of the department. The department shall identify the confidential data to a program within the department receiving the data as described by Subsection (k). The program receiving the data must ensure that the confidential data remains confidential.

(m) Notwithstanding other law, the confidential data collected under this chapter that is disclosed to another program within the department under this section remains subject to the confidentiality provisions of this chapter.

(n) Subsections (c), (d), and (g) and Sections 108.010(g) and (h) and 108.011(e) and (f) do not apply to the disclosure of data to a department program with respect to which the department is given approval to disclose data under this section. This subsection does not authorize disclosure of physician and health care practitioner identifying data.

SECTION _____. Section 108.0135, Health and Safety Code, is amended to read as follows:

Sec. 108.0135. INSTITUTIONAL ~~[SCIENTIFIC]~~ REVIEW BOARD ~~[PANEL]~~. (a) The department ~~[council]~~ shall establish a department institutional review board or similar privacy board ~~[scientific review panel]~~ to review and approve valid requests for access to data not contained in the ~~[information other than]~~ public use data element list established by rule, excluding the names and

identification numbers of the patients, physicians, and health practitioners. The members of the board ~~[panel]~~ shall have experience and expertise in ethics, patient confidentiality, and health care data.

(b) For purposes of Subsection (a), an identification number is any unique identifier composed of numeric, alpha, or alphanumeric characters assigned by a person to the patient, physician, or health care practitioner, but does not include a uniform identifier assigned by the department under this chapter ~~[To assist the panel in determining whether to approve a request for information, the council shall adopt rules similar to the federal Health Care Financing Administration's guidelines on releasing data].~~

~~[(e) A request for information other than public use data must be made on the form created by the council.]~~

SECTION _____. Subsections (b), (c), and (d), Section 108.014, Health and Safety Code, are amended to read as follows:

(b) A person who fails to supply available data under this chapter ~~[Sections 108.009 and 108.010]~~ is liable for a civil penalty of not less than \$500 ~~[\$1,000 or more than \$10,000]~~ for each day after the date of the last day on which the entity may timely submit the data. In determining the amount of the civil penalty, the court shall consider:

- (1) the person's previous violations;
- (2) the seriousness ~~[act]~~ of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (3) whether the health and safety of the public was threatened by the violation;
- (4) the demonstrated good faith of the person; and
- (5) the amount necessary to deter future violations.

(c) The attorney general, at the request of the department ~~[council]~~, shall enforce this chapter. The venue of an action brought under this section is in Travis County.

(d) A civil penalty recovered in a suit instituted by the attorney general under this chapter shall be deposited in the general revenue fund and may be appropriated to ~~[the credit of] the department~~ [health care information account].

SECTION _____. Chapter 108, Health and Safety Code, is amended by adding Sections 108.0142 and 108.0143 to read as follows:

Sec. 108.0142. INJUNCTION. (a) The department may bring an action for an injunction or other process against a person who knowingly or negligently releases data in violation of this chapter or who fails to file data or reports required by this chapter.

(b) The district court may grant any prohibitory or mandatory relief warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

Sec. 108.0143. REMEDIES CUMULATIVE. The civil penalty and injunction authorized by this chapter are in addition to any other civil, administrative, or criminal action provided by law.

SECTION _____. Subsection (b), Section 531.021, Government Code, is amended to read as follows:

(b) The commission shall:

(1) plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program, including the management of the Medicaid managed care system and the development, procurement, management, and monitoring of contracts necessary to implement the Medicaid managed care system;

(2) adopt reasonable rules and standards governing the determination of fees, charges, and rates for medical assistance payments under Chapter 32, Human Resources Code, in consultation with the agencies that operate the Medicaid program; and

(3) establish requirements for and define the scope of the ongoing evaluation of the Medicaid managed care system conducted in conjunction with the Texas Health Care Information Collection Program [~~Council~~] under Chapter 108 [~~Section 108.0065~~], Health and Safety Code.

SECTION _____. Section 2054.0541, Government Code, is amended to read as follows:

Sec. 2054.0541. STATEWIDE HEALTH CARE DATA COLLECTION SYSTEM. The department shall assist the [~~Texas Health Care Information Council and the Texas~~] Department of State Health Services with planning, analyses, and management functions relating to the procurement, use, and implementation of a statewide health care data collection system under Chapter 108, Health and Safety Code.

SECTION _____. Subsection (b), Section 501.253, Insurance Code, is amended to read as follows:

(b) The department and the Department of State Health Services [~~Texas Health Care Information Council~~] shall provide any information or data as requested by the office in furtherance of the duties under this subchapter.

SECTION _____. The following provisions of the Health and Safety Code are repealed:

- (1) Subdivision (2), Section 108.002;
- (2) Section 108.003;
- (3) Section 108.004;
- (4) Section 108.0045;
- (5) Section 108.005;
- (6) Section 108.0062;
- (7) Section 108.0065;
- (8) Section 108.008;
- (9) Section 108.0081;
- (10) Section 108.0085; and
- (11) Section 108.015.

SECTION _____. A reference in law to the Texas Health Care Information Council means the Texas Health Care Information Collection Program.

Amendment No. 6 was adopted.

SB 1731, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 589 ON SECOND READING
(J. Davis - House Sponsor)

SB 589, A bill to be entitled An Act relating to Temporary Assistance for Needy Families (TANF) employment programs and participation in those programs by certain parents who are not TANF recipients.

SB 589 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 1523 ON SECOND READING
(Dukes - House Sponsor)

CSSB 1523, A bill to be entitled An Act relating to facilitating and supporting efforts of certain municipalities and counties to promote economic development by hosting certain major sporting or athletic events.

Amendment No. 1

Representative Ortiz offered the following amendment to **CSSB 1523**:

Amend **CSSB 1523** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subdivision (4), Subsection (a), Section 5B, Chapter 1507, Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), is amended to read as follows:

(4) "Motor sports racing event" means a specific automobile racing event sanctioned by the Automobile Competition Committee for the United States (ACCUS) and held at a temporary event venue ~~[for a particular year referred to as the United States Grand Prix, or a specific automobile racing event that is part of the Champ Car World Series or the American Le Mans Series]~~. The term includes any events and activities held, sponsored, or endorsed by the site selection organization in conjunction with the racing event.

Amendment No. 1 was adopted.

SB 410 - RECOMMITTED

Representative Parker moved to recommit **SB 410** to the Committee on Culture, Recreation, and Tourism.

The motion prevailed.

CSSB 1523 - (consideration continued)

CSSB 1523, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

(Paxton in the chair)

CSSB 3 ON SECOND READING
(Puente - House Sponsor)

CSSB 3, A bill to be entitled An Act relating to the development, management, and preservation of the water resources of the state; providing penalties.

Amendment No. 1

Representative Puente offered the following amendment to **CSSB 3**:
Floor Packet Page No. 32

Amend **CSSB 3** (House Committee Printing) in ARTICLE 2 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 2. _____. (a) Notwithstanding Section 16.053(i), Water Code, and except as otherwise provided by this section, the Texas Water Development Board may approve and include in the state water plan for the five-year period beginning January 5, 2007, the regional water plan that was submitted to the board by the Region L regional water planning group.

(b) The Texas Water Development Board may approve the regional water plan for Region L only if the board:

(1) strikes Sections 4C.7, 4C.8, and 4C.32 from the plan as submitted to the board; and

(2) includes Section 4C.33 in the plan as the Lower Guadalupe Water Supply Project for Upstream GBRA Needs so as to:

(A) require that the project be developed by the regional water planning group for Region L in association with the Guadalupe-Blanco River Authority;

(B) include a transmission pipeline for the diversion of up to 60,000 acre-feet per year of surface water available under the water rights held by the Guadalupe-Blanco River Authority as of December 31, 2006, from the Guadalupe River below the city of Victoria to upstream points on the river to meet needs identified by the Region L regional water planning group; provided, however, that at least 100,000 acre-feet per year of the surface water must be reserved for lower basin needs;

(C) prohibit the use of fresh groundwater for the project;

(D) require the consent of the appropriate property owner before off-channel storage or an off-channel reservoir may be developed as part of the project; and

(E) require freshwater inflows in an amount sufficient to meet the Parks and Wildlife Department, Texas Commission on Environmental Quality, and Texas Water Development Board's environmental consensus criteria for San Antonio Bay to be identified and included in the project.

(c) The Texas Water Development Board shall amend the state water plan for the five-year period beginning January 5, 2007, as necessary to conform to the requirements of this section.

(d) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2007.

Amendment No. 1 was adopted.

(Speaker in the chair)

Amendment No. 2

Representative Puente offered the following amendment to **CSSB 3**:

Floor Packet Page No. 34

Amend **CSSB 3** (House committee printing) in ARTICLE 2 of the bill by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 2. _____. Subsections (a), and (e), Section 36.1071, Water Code are amended to read as follows:

Sec. 36.1071. MANAGEMENT PLAN. (a) Following notice and hearing, the district shall, in coordination with surface water management entities on a regional basis, develop a comprehensive management plan which addresses the following management goals, as applicable:

- (1) providing the most efficient use of groundwater;
- (2) controlling and preventing waste of groundwater;
- (3) controlling and preventing subsidence;
- (4) addressing conjunctive surface water management issues;
- (5) addressing natural resource issues;
- (6) addressing drought conditions;
- (7) addressing conservation, recharge enhancement, rainwater harvesting, precipitation enhancement, or brush control, where appropriate and cost-effective; ~~and~~

(8) addressing in a quantitative manner the desired future conditions of the groundwater resources [-] ; and

(9) addressing total aquifer storage.

(e) In the management plan described under Subsection (a), the district shall:

(1) identify the performance standards and management objectives under which the district will operate to achieve the management goals identified under Subsection (a);

(2) specify, in as much detail as possible, the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules;

(3) include estimates of the following:

(A) managed available groundwater in the district based on the desired future condition and the total aquifer storage established under Section 36.108;

(B) the amount of groundwater being used within the district on an annual basis;

(C) the annual amount of recharge from precipitation, if any, to the groundwater resources within the district;

(D) for each aquifer, the annual volume of water that discharges from the aquifer to springs and any surface water bodies, including lakes, streams, and rivers;

(E) the annual volume of flow into and out of the district within each aquifer and between aquifers in the district, if a groundwater availability model is available;

(F) the projected surface water supply in the district according to the most recently adopted state water plan; and

(G) the projected total demand for water in the district according to the most recently adopted state water plan; and

(4) consider the water supply needs and water management strategies included in the adopted state water plan.

SECTION 2.____. Subsection (f), Section 36.108, Water Code is amended to read as follows:

(f) A district or person with a legally defined interest in the groundwater within the management area may file a petition with the commission requesting an inquiry if a district or districts refused to join in the planning process or the process failed to result in adequate planning, ~~including~~ or the establishment of reasonable future desired conditions of the aquifers, and the petition provides evidence that:

(1) a district in the groundwater management area has failed to adopt rules;

(2) the rules adopted by a district are not designed to achieve the desired future condition of the groundwater resources in the groundwater management area established during the joint planning process;

(3) the groundwater in the management area is not adequately protected by the rules adopted by a district; ~~or~~

(4) the groundwater in the groundwater management area is not adequately protected due to the failure of a district to enforce substantial compliance with its rules~~[-]~~; or

(5) the process failed to result in the establishment of reasonable desired future conditions of the aquifer.

Amendment No. 2 was adopted.

(Callagari in the chair)

Amendment No. 3

Representative Puente offered the following amendment to **CSSB 3**:

Floor Packet Page No. 66

Amend **CSSB 3** (house committee printing), in ARTICLE 2 of the bill, by adding the following appropriately numbered SECTIONS to the ARTICLE and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 2. _____. Subtitle A, Title 2, Water Code, is amended by adding Chapter 10 to read as follows:

CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

Sec. 10.001. DEFINITIONS. In this chapter:

11.002. (1) "Best management practices" has the meaning assigned by Section

(2) "Board" means the Texas Water Development Board.

Quality. (3) "Commission" means the Texas Commission on Environmental

(4) "Council" means the Water Conservation Advisory Council.

Sec. 10.002. PURPOSE. The council is created to provide the governor, lieutenant governor, speaker of the house of representatives, legislature, board, commission, political subdivisions, and public with the resource of a select council with expertise in water conservation.

Sec. 10.003. CREATION AND MEMBERSHIP. (a) The council is composed of 23 members appointed by the board. The board shall appoint one member to represent each of the following entities or interest groups:

(1) Texas Commission on Environmental Quality;

(2) Department of Agriculture;

(3) Parks and Wildlife Department;

(4) State Soil and Water Conservation Board;

(5) Texas Water Development Board;

(6) regional water planning groups;

(7) federal agencies;

(8) municipalities;

(9) groundwater conservation districts;

(10) river authorities;

(11) environmental groups;

(12) irrigation districts;

(13) institutional water users;

(14) professional organizations focused on water conservation;

(15) higher education;

(16) agricultural groups;

(17) refining and chemical manufacturing;

(18) electric generation;

(19) mining and recovery of minerals;

(20) landscape irrigation and horticulture;

(21) water control and improvement districts;

(22) rural water users; and

(23) municipal utility districts.

(b) Each entity or interest group described by Subsection (a) may recommend one or more persons to fill the position on the council held by the member who represents that entity or interest group. If one or more persons are recommended for a position on the council, the board shall appoint one of the persons recommended to fill the position.

Sec. 10.004. TERMS. (a) Members of the council serve staggered terms of six years, with seven or eight members' terms, as applicable, expiring August 31 of each odd-numbered year.

(b) The board shall fill a vacancy on the council for the unexpired term by appointing a person who has the same qualifications as required under Section 10.003 for the person who previously held the vacated position.

Sec. 10.005. PRESIDING OFFICER. The council members shall select one member as the presiding officer of the council to serve in that capacity until the person's term as a council member expires.

Sec. 10.006. COUNCIL STAFF. On request by the council, the board shall provide any necessary staff to assist the council in the performance of its duties.

Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) The council may hold public meetings as needed to fulfill its duties under this chapter.

(b) The council is subject to Chapters 551 and 552, Government Code.

Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the council.

Sec. 10.009. COMPENSATION OF MEMBERS. (a) Members of the council serve without compensation but may be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.

(b) Reimbursement under Subsection (a) is subject to the approval of the presiding officer of the council.

Sec. 10.010. POWERS AND DUTIES OF COUNCIL. The council shall:

(1) monitor trends in water conservation implementation;

(2) monitor new technologies for possible inclusion by the board as best management practices in the best management practices guide developed by the water conservation implementation task force under Chapter 109, Acts of the 78th Legislature, Regular Session, 2003;

(3) monitor the effectiveness of the statewide water conservation public awareness program developed under Section 16.401 and associated local involvement in implementation of the program;

(4) develop and implement a state water management resource library;

(5) develop and implement a public recognition program for water conservation;

(6) monitor the implementation of water conservation strategies by water users included in regional water plans; and

(7) monitor target and goal guidelines for water conservation to be considered by the board and commission.

Sec. 10.011. REPORT. Not later than December 1 of each even-numbered year, the council shall submit to the governor, lieutenant governor, and speaker of the house of representatives a report on progress made in water conservation in this state.

Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION TRAINING FACILITIES STUDY. (a) The council shall conduct a study to evaluate the desirability of requiring the board to:

(1) designate as certified water conservation training facilities entities and programs that provide assistance to retail public utilities in developing water conservation plans under Section 13.146; and

(2) give preference to certified water conservation training facilities in making loans or grants for water conservation training and education activities.

(b) Not later than December 1, 2008, the council shall submit a written report containing the findings of the study and the recommendations of the council to the governor, lieutenant governor, and speaker of the house of representatives.

(c) This section expires June 1, 2009.

SECTION 2. ____. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.969 to read as follows:

Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES CURRICULUM. The Texas Higher Education Coordinating Board shall encourage each institution of higher education to develop curriculum and provide related instruction regarding on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down.

SECTION 2. ____. Section 447.004, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The procedural standards adopted under this section must require that on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for nonpotable indoor use and landscape watering be incorporated into the design and construction of:

(1) each new state building with a roof measuring at least 10,000 square feet; and

(2) any other new state building for which the incorporation of such systems is feasible.

SECTION 2. ____. Section 341.042, Health and Safety Code, is amended to read as follows:

Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) The commission shall establish recommended standards relating to the domestic use of harvested rainwater, including health and safety standards for treatment and collection methods for harvested rainwater intended for drinking, cooking, or bathing.

(b) The commission by rule shall provide that if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use:

(1) the structure must have appropriate cross-connection safeguards;
and

(2) the rainwater harvesting system may be used only for nonpotable indoor purposes.

(c) Standards and rules adopted by the commission under this chapter governing public drinking water supply systems do not apply to a person:

(1) who harvests rainwater for domestic use; and

(2) whose property is not connected to a public drinking water supply system.

SECTION 2.____. Chapter 401, Local Government Code, is amended by adding Section 401.006 to read as follows:

Sec. 401.006. WATER CONSERVATION BY HOME-RULE MUNICIPALITY. A home-rule municipality may adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

SECTION 2.____. Section 1903.053, Occupations Code, is amended to read as follows:

Sec. 1903.053. STANDARDS. (a) The commission shall adopt by rule and enforce standards governing:

(1) the connection of irrigation systems to any water supply;

(2) the design, installation, and operation of irrigation systems;

(3) water conservation; and

(4) the duties and responsibilities of licensed irrigators.

~~(b) [The commission may adopt standards for irrigation that include water conservation, irrigation system design and installation, and compliance with municipal codes.~~

~~[~~(e)~~] The commission may not require or prohibit the use of any irrigation system, component part, or equipment of any particular brand or manufacturer.~~

(c) In adopting standards under this section, the commission shall consult the council.

SECTION 2.____. As soon as practicable on or after the effective date of this article, the Texas Water Development Board shall appoint the initial members of the Water Conservation Advisory Council, as required by Section 10.003, Water Code, as added by this article. In making the initial appointments, the board shall designate seven members to serve terms expiring August 31, 2009, eight members to serve terms expiring August 31, 2011, and eight members to serve terms expiring August 31, 2013.

SECTION 2.____. Not later than June 1, 2008, the Texas Commission on Environmental Quality shall adopt standards as required by Section 1903.053, Occupations Code, as amended by this article, to take effect January 1, 2009.

SECTION 2.____. Section 2.____ of this article, adding Section 447.004(c-1), Government Code, takes effect September 1, 2009.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Puente offered the following amendment to **CSSB 3**:

Floor Packet Page No. 87

Amend **CSSB 3** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . AREA PERMITS AND PRODUCTION AREAS FOR
URANIUM MINING

SECTION ____ .01. Subchapter D, Chapter 27, Water Code, is amended by adding Section 27.0513 to read as follows:

Sec. 27.0513. AREA PERMITS AND PRODUCTION AREAS FOR URANIUM MINING. (a) The commission may issue a permit pursuant to Section 27.011 that authorizes the construction and operation of two or more similar injection wells within a specified area for mining of uranium. An application for a new permit issued pursuant to Section 27.011, a major amendment of such a permit, or a renewal of such a permit for mining of uranium is subject to the public notice requirements and opportunity for contested case hearing provided under Section 27.018.

(b) For a permit for mining of uranium issued on or after September 1, 2007, pursuant to Section 27.011, the term of the permit to authorize injection for recovery of uranium shall be 10 years. The holder of a permit for mining of uranium issued by the commission before September 1, 2007, pursuant to Section 27.011, must submit an application to the commission before September 1, 2012, for renewal of the permit to authorize construction and operation of injection wells for mining of uranium. Authority to construct or operate injection wells for recovery of uranium under a permit issued before September 1, 2007, pursuant to Section 27.011, expires on September 1, 2012, if an application for renewal of the permit is not submitted to the commission before September 1, 2012. Expiration of authority under this subsection does not relieve the permit holder from obligations under the permit or applicable rules, including obligations to restore groundwater and to plug and abandon wells in accordance with the requirements of the permit and applicable rules.

(c) The commission may issue a holder of a permit issued pursuant to Section 27.011 for mining of uranium an authorization that allows the permit holder to conduct mining and restoration activities in production zones within the boundary established in the permit. The commission by rule shall establish application requirements, technical requirements, including the methods for determining restoration table values, and procedural requirements for any authorization.

(d) Notwithstanding Sections 5.551, 5.556, 27.011, and 27.018, an application for an authorization submitted after September 1, 2007, is an uncontested matter not subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code. An application filed by the holder of a permit issued pursuant to Section 27.011 to amend a restoration table value of an authorization is subject to the public notice requirements and opportunity for contested case hearing provided under Section 27.018.

SECTION _____.02. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect on the 91st day after the last day of the legislative session.

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Puente offered the following amendment to **CSSB 3**:

Floor Packet Page No. 96

Amend **CSSB 3** by adding the following appropriately numbered SECTION to Article 2 and renumbering the SECTIONS of the article accordingly:

SECTION 2._____. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2205 to read as follows:

Sec. 49.2205. USE OF RIGHT-OF-WAY EASEMENTS FOR CERTAIN ENERGY-RELATED PURPOSES. (a) To foster the generation and transmission of electricity from clean coal projects, as defined by Section 5.001, renewable energy technology projects, and the capture and storage of carbon dioxide and other greenhouse gases, a district or water supply corporation may allow others to construct, maintain, and operate transmission lines and pipelines over, under, across, on, or along rights-of-way and easements of the district or water supply corporation for transmission of electricity generated by those projects and the transportation of carbon dioxide and other greenhouse gases, unless the use:

(1) is incompatible with the public use for which the easement was acquired or condemned; or

(2) compromises public health or safety.

(b) The district or water supply corporation is not required to obtain additional consideration for the construction, maintenance, and operation of the transmission lines and pipelines under this section if the person constructing, maintaining, and operating the transmission lines and pipelines bears all costs of the construction, maintenance, and operation of the transmission lines and pipelines and restoring the property. The activities authorized by this subsection may be exercised only with the consent of and subject to the direction of the governing body of the district or water supply corporation.

(c) A person that is subject to Subsection (a) that acquires a right-of-way easement on real property for a public use may include in the notice of the acquisition a statement that to foster the generation and transmission of electricity from clean coal projects as defined by Section 5.001, Water Code, renewable energy technology projects, and the capture and storage of carbon dioxide and other greenhouse gases, water districts and water supply corporations may allow others to construct, maintain, and operate transmission lines and pipelines over, under, across, on, or along the rights-of-way and easements for the transmission of electricity that is generated by those projects and transportation of carbon dioxide and other greenhouse gases, unless the use:

(1) is incompatible with the public use for which the easement was acquired or condemned; or

(2) compromises public health or safety.

(d) This section applies only to a right-of-way or easement acquired by the district or water supply corporation on or after September 1, 2007.

(e) This section does not apply to a right-of-way or easement that is used for the transmission of electricity without the consent of a person owning the transmission lines if that use began before September 1, 2007.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Puente offered the following amendment to **CSSB 3**:
Floor Packet Page No. 98

Amend **CSSB 3** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____. GOVERNING BODY AND BOUNDARIES OF CERTAIN
WATER DISTRICTS

SECTION ____.01. Chapter 49, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. GOVERNING BODY AND BOUNDARIES OF CERTAIN
DISTRICTS

Sec. 49.501. APPLICABILITY. This subchapter applies only to a district located primarily in a county with a population of more than 1.3 million and in which the most populous municipality relies on a sole source aquifer for more than 50 percent of the municipality's water.

Sec. 49.502. GOVERNING BODY. A district to which this subchapter applies is governed by the commissioners court of the county in which the district is primarily located.

Sec. 49.503. FEES OF OFFICE. A director may not receive fees of office.

Sec. 49.504. BOUNDARIES FOR CONDUCTING ELECTION. A district's boundaries for the purpose of conducting an election are coextensive with the boundaries of the county in which the district is primarily located.

Sec. 49.505. CONFLICT OF LAW. If there is a conflict between this subchapter and any local law or between this subchapter and any other section of this chapter, including Section 49.060, this subchapter controls.

Amendment No. 7

Representative Puente offered the following amendment to Amendment No. 6:

Amend Amendment No. 6 by Puente to **CSSB 3** on page 1, line 16, between "located" and the period, by inserting ", serving ex officio as the board of directors of the district".

Amendment No. 7 was adopted.

Amendment No. 6, as amended, was adopted. (The vote was later reconsidered on May 25, and Amendment No. 6, as further amended, was adopted.)

Amendment No. 8

Representative Puente offered the following amendment to **CSSB 3**:
Floor Packet Page No. 107

Amend **CSSB 3** (House Committee Printing) by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . WATER SERVICE

SECTION ____ .01. Subchapter B, Chapter 54, Water Code, is amended by adding Section 54.017 to read as follows:

Sec. 54.017. CREATION ON RELEASE FROM ANOTHER ENTITY'S SERVICE AREA. (a) Except as provided by Subsection (c), a municipality shall provide water service to a land area:

(1) that is composed of one or more contiguous or noncontiguous parcels that together total at least 50 acres in size;

(2) that is within the corporate limits or the extraterritorial jurisdiction of the municipality; and

(3) for which, on or before the effective date of the Act enacting this section, the owner or owners of the land have entered into a written agreement with a rural water supply corporation to release the land from the service area of the corporation's certificate of public convenience and necessity.

(b) This section applies only to land served by a rural water supply corporation that has fewer than 5,000 water connections.

(c) If the municipality determines that it cannot meet the current and projected demands for water service to the released land within the time specified by the land's owner or owners:

(1) the municipality shall notify the owner or owners of the land of that determination; and

(2) a district shall be formed in accordance with this section to provide water service to the land.

(d) To create the district, the owner or owners of the released land shall submit a petition to the commission that includes:

(1) a copy of the agreement described by Subsection (a)(3);

(2) a copy of the notice described by Subsection (c)(1); and

(3) the information required under Section 54.015.

(e) The time periods specified and the consent of the municipality or the consideration of any recommendation of the county otherwise required by this chapter do not apply to the creation of a district under this section.

(f) The commission shall expedite the creation of the district and shall approve the creation of the district not later than the 90th day after the date of receipt of an administratively complete petition to create the district.

(g) This section expires September 1, 2011.

SECTION ____ .02. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

Amendment No. 8 was withdrawn.

(Solomons in the chair)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hilderbran requested permission for the Committee on Culture, Recreation, and Tourism to meet while the house is in session, 9:10 p.m. today, in 3W.9, for a formal meeting, to consider **SB 410**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Culture, Recreation, and Tourism, 9:10 p.m. today, 3W.9, for a formal meeting, to consider **SB 410**.

PROVIDING FOR ADJOURNMENT

Representatives Herrero and Hardcastle moved that, at the conclusion of bills and resolutions signed in the presence of the house, the house adjourn until 10 a.m. tomorrow, in memory of Army Sergeant Anselmo Martinez III of Robstown and Army Specialist Ryan Collins of Vernon.

The motion prevailed.

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 Nos. 44 and 45).

ADJOURNMENT

In accordance with a previous motion, the house, at 9:17 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

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

House List No. 42

HB 8, HB 167, HB 195, HB 585, HB 654, HB 693, HB 776, HB 1010, HB 1070, HB 1157, HB 1530, HB 1579, HB 1652, HB 1717, HB 1910, HB 1928, HB 2163, HB 2168, HB 2251, HB 2439, HB 2625, HB 2931, HB 3158, HB 3281, HB 3322, HCR 259, HJR 69

Senate List No. 44

SB 61, SB 63, SB 129, SB 136, SB 138, SB 139, SB 140, SB 153, SB 166, SB 201, SB 214, SB 246, SB 247, SB 251, SB 274, SB 285, SB 289, SB 303, SB 310, SB 311, SB 322, SB 328, SB 351, SB 352, SB 397, SB 535, SB 561, SB 564, SB 592, SB 616, SB 618, SB 620, SB 781, SB 833, SB 877, SB 908, SB 924, SB 940, SB 949, SB 969, SB 1222, SB 1260, SB 1318, SB 1372, SB 1519, SB 1536, SB 1618, SB 1627, SB 1630, SB 1884, SB 1956, SB 1961, SB 1963, SB 1964, SB 2009, SCR 75

Senate List No. 45

SB 22, SB 24, SB 64, SB 82, SB 157, SB 175, SB 182, SB 235, SB 295, SB 329, SB 480, SB 502, SB 512, SB 541, SB 555, SB 563, SB 608, SB 640, SB 654, SB 682, SB 687, SB 705, SB 711, SB 748, SB 749, SB 757, SB 811, SB 819, SB 821, SB 835, SB 850, SB 853, SB 867, SB 870, SB 885, SB 893, SB 932, SB 955, SB 1037, SB 1039, SB 1047, SB 1056, SB 1063, SB 1086, SB 1165, SB 1182, SB 1196, SB 1215, SB 1244, SB 1257, SB 1269, SB 1325, SB 1349, SB 1396, SB 1412, SB 1413, SB 1416, SB 1417, SB 1439, SB 1540, SB 1541, SB 1626, SB 1661, SB 1709, SB 1732, SB 1761, SB 1765, SB 1766, SB 1786, SB 1953, SB 1965, SB 1966, SB 1967, SB 1999, SCR 30, SCR 38, SCR 70, SCR 71, SCR 72

MESSAGES FROM THE SENATE

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

Message No. 1**MESSAGE FROM THE SENATE**

SENATE CHAMBER

Austin, Texas

Monday, May 21, 2007

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 48

Chavez

SPONSOR: Zaffirini

Relating to distributions from the employment and training investment holding fund.

HB 54 Chavez SPONSOR: Deuell
Relating to the advertising, promoting, and conducting of certain live musical performances; providing a civil penalty.

HB 95 Martinez, "Mando" SPONSOR: Hinojosa
Relating to interference with child custody in violation of a temporary child custody order; imposing a criminal penalty.

HB 271 Gonzales SPONSOR: Lucio
Relating to disclosure by a home seller of previous use of the home for manufacture of methamphetamine.

HB 321 Dukes SPONSOR: Deuell
Relating to the establishment of a pilot program by the Health and Human Services Commission to accept importation of electronic eligibility information from a regional indigent care provider.

HB 412 Eissler SPONSOR: Carona
Relating to erecting or maintaining certain outdoor signs or advertising; creating an offense; providing penalties.
(Committee Substitute)

HB 429 Madden SPONSOR: Deuell
Relating to a study of the expenses of health care for certain elderly inmates.

HB 724 Solomons SPONSOR: Jackson,
Mike
Relating to workers' compensation claims for certain medical benefits, death benefits, and burial benefits.
(Committee Substitute/Amended)

HB 738 Bonnen SPONSOR: Jackson,
Mike
Relating to an exemption from Texas Commission on Fire Protection training requirements for certain aircraft fire fighting and rescue fire protection personnel.

HB 842 Raymond SPONSOR: Zaffirini
Relating to public access to personal financial statements filed by judges and justices.

HB 890 Hilderbran SPONSOR: Fraser
Relating to the creation of an irrevocable trust for the proceeds of the sale or disposition of county school lands.

HB 1029 Goolsby SPONSOR: Carona
Relating to an exemption from electrician licensing requirements for certain work performed by a plumber.

HB 1092 Hilderbran SPONSOR: Wentworth
Relating to the prosecution of the offense of criminal trespass.
(Amended)

HB 1129 Macias SPONSOR: Wentworth
Relating to the prosecution and punishment of the offense of criminal trespass.

HB 1170 Flynn SPONSOR: Deuell

Relating to the regulation and limitation of liability of persons engaged in certain liquefied petroleum gas-related activities, including requirements concerning consumer safety notification.

HB 1268 Van Arsdale SPONSOR: Ellis
Relating to the award of attorney's fees under the terms of certain contracts with a governmental entity.

HB 1303 Pena SPONSOR: West, Royce
Relating to certain requirements applicable to orders of expunction or nondisclosure of criminal history records and to the protection of information that is the subject of one of those orders; providing penalties.
(Committee Substitute/Amended)

HB 1374 Swinford SPONSOR: Seliger
Relating to service areas of the Amarillo College District, the Borger Junior College District, the Midland Community College District, and the Odessa College District.
(Committee Substitute)

HB 1420 Smith, Wayne SPONSOR: Jackson, Mike
Relating to the removal of property from county roads by certain counties.

HB 1446 Bohac SPONSOR: Williams
Relating to the period for preserving precinct election records.

HB 1700 Hilderbran SPONSOR: Fraser
Relating to a project for the development and implementation of a nature science curriculum for public school students.

HB 1709 Naishtat SPONSOR: Watson
Relating to bonds required of guardians and other personal representatives.

HB 1767 Pena SPONSOR: Carona
Relating to the punishment for criminal mischief committed by interfering with certain transportation signs, signals, or devices.

HB 1798 Martinez Fischer SPONSOR: Uresti
Relating to the criminal consequences of driving a motor vehicle on certain designated right-of-way of a metropolitan rapid transit authority.

HB 1804 Gattis SPONSOR: Ogden
Relating to the prosecution of the offense of improper photography or visual recording.

HB 1921 Keffer, Jim SPONSOR: Eltife
Relating to the use of certain devices in a polling place.
(Committee Substitute)

HB 2095 Guillen SPONSOR: Zaffirini
Relating to allowing certain counties with no incorporated territory to participate in programs designed to assist municipalities.

HB 2096 Quintanilla SPONSOR: Uresti
Relating to utility connections on certain tracts of property in certain counties near an international border.

(Committee Substitute)

HB 2195 McCall SPONSOR: Harris
Relating to the time of day by which a report must be filed electronically with the Texas Ethics Commission.

HB 2248 Van Arsdale SPONSOR: Williams
Relating to the ability of a governmental body under the public information law to request a redetermination from the attorney general on dismissal of litigation relating to the same issue.

HB 2293 Noriega, Rick SPONSOR: Watson
Relating to a requirement that state agencies purchase low-emissions vehicles as a minimum percentage of their vehicles purchased.

HB 2348 Thompson SPONSOR: Ellis
Relating to prohibiting alcoholic beverage license or permit application by certain persons.

HB 2350 Thompson SPONSOR: Patrick, Dan
Relating to eligibility of certain persons for an alcoholic beverage license or permit.

HB 2352 Thompson SPONSOR: Ellis
Relating to a registered property tax consultant.
(Committee Substitute/Amended)

HB 2391 Madden SPONSOR: Seliger
Relating to the appearance of certain misdemeanor offenders before a magistrate.

HB 2444 Oliveira SPONSOR: Lucio
Relating to the powers of the Southmost Regional Water Authority.

HB 2504 Eissler SPONSOR: Shapiro
Relating to an intensive mathematics and algebra intervention pilot program in public schools.

HB 2510 Martinez, "Mando" SPONSOR: Hinojosa
Relating to the creation, administration, powers, duties, operations, and financing of a commuter rail district; granting the authority to issue bonds; granting the power of eminent domain.
(Amended)

HB 2548 Smith, Todd SPONSOR: Averitt
Relating to coverage limitations in health benefit plans.
(Committee Substitute)

HB 2549 Smith, Todd SPONSOR: Averitt
Relating to eligibility of certain dependents for group life insurance.
(Committee Substitute)

HB 2565 Madden SPONSOR: Carona
Relating to the establishment of an advisory committee on motor vehicle inspections related to safety and emissions.

HB 2589 McCall SPONSOR: Harris

Relating to the imposition of a civil penalty in connection with a self-corrected statement, registration, or report filed with the Texas Ethics Commission.

HB 2591 Bonnen SPONSOR: Jackson, Mike

Relating to county improvement of subdivision roads.

HB 2626 Murphy SPONSOR: Janek
Relating to purchases made at the campus level in certain school districts.

HB 2639 Smithee SPONSOR: Duncan
Relating to risk management programs for members and advisors of student organizations at public and private postsecondary educational institutions and to certain insurance requirements for fraternities.
(Committee Substitute)

HB 2761 Eiland SPONSOR: Averitt
Relating to requirements governing suitability in certain annuity transactions with consumers.
(Committee Substitute)

HB 2984 Creighton SPONSOR: Hegar
Relating to the qualification of supervisors of a fresh water supply district.
(Amended)

HB 2992 Murphy SPONSOR: Carona
Relating to the registration of semitrailers.

HB 3105 Anchia SPONSOR: Duncan
Relating to a program allowing for countywide voting locations in certain elections.
(Committee Substitute)

HB 3106 Isett, Carl SPONSOR: Hegar
Relating to the implementation of enterprise resource planning by the comptroller.
(Committee Substitute)

HB 3259 Branch SPONSOR: Shapiro
Relating to the administration of international assessment instruments to certain public school students.

HB 3352 Woolley SPONSOR: Whitmire
Relating to municipal civil service for firefighters and police officers in certain municipalities.
(Committee Substitute)

HB 3473 Delisi SPONSOR: Watson
Relating to consent for medical treatment.

HB 3634 Deshotel SPONSOR: Williams
Relating to the name and powers of the Jefferson County Waterway and Navigation District.

HCR 199 Hodge SPONSOR: West, Royce
In memory of Charlotte Ragsdale of Dallas.

HCR 203 Harper-Brown SPONSOR: Nelson

Extending deepest sympathy to the families of the victims of the tragedy at Virginia Tech, and to the students, faculty, and staff of the university.

HCR 248 Hilderbran SPONSOR: Fraser
Honoring Fred H. Tally Elementary School in Kerrville on its selection as a 2006-2007 National Title I Distinguished School.

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

SB 502 (30 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 792

Senate Conferees: Williams - Chair/Brimer/Carona/Nichols/Shapleigh

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 21, 2007 - 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:

SCR 81 Watson
Recognizing Emmett Sheppard on the occasion of his retirement from the Texas American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 21, 2007 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 120 Brown, Fred SPONSOR: Shapiro
Relating to state funding and designated tuition charged for courses provided during off-peak hours at certain public institutions of higher education.
(Committee Substitute)

HB 387 Callegari SPONSOR: Patrick, Dan
Relating to the repeal of the law relating to the Texas National Research Laboratory Commission.

HB 621 Chavez SPONSOR: Duncan
Relating to the exemption from ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes.
(Committee Substitute)

HB 1034 Riddle SPONSOR: Patrick, Dan
Relating to the pledge of allegiance to the state flag.
(Committee Substitute)

HB 1297 Delisi SPONSOR: Nelson
Relating to the creation of the state employee wellness program.
(Amended)

HB 1521 Kolkhorst SPONSOR: Hegar
Relating to the prohibition of signs on certain roads.
(Amended)

HB 2766 Eiland SPONSOR: Janek
Relating to the location at which certain courts may conduct proceedings following certain disasters.
(Amended)

HB 2834 Brown, Fred SPONSOR: Ogden
Relating to the use of land on the main campus of Texas A&M University in College Station.

HB 3367 Straus SPONSOR: Wentworth
Relating to the change in municipal boundaries by agreement between certain municipalities.

(Committee Substitute)

HB 3410 Gattis SPONSOR: Ogden
Relating to alternative procedures for plat revision of residential areas by a county.

HB 3457 Hochberg SPONSOR: Zaffirini
Relating to idling the diesel engine of a school bus while the bus is parked at a public school or school event.
(Committee Substitute)

HB 3928 Keffer, Jim SPONSOR: Ogden
Relating to technical changes to the revised franchise tax.
(Committee Substitute/Amended)

HCR 114 Farabee SPONSOR: Estes
In memory of the Honorable John J. Gavin of Wichita Falls.

HCR 240 Homer SPONSOR: Eltife
In memory of Robert Kim Brown of Austin.

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

SB 22 (29 Yeas, 0 Nays)

SB 64 (29 Yeas, 0 Nays)

SB 82 (29 Yeas, 0 Nays)

SB 563 (29 Yeas, 0 Nays)

SB 811 (29 Yeas, 0 Nays)

SB 1037 (29 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 993
Senate Conferees: Nelson - Chair/Deuell/Ellis/Janek/Shapiro

SB 1031
Senate Conferees: Shapiro - Chair/Janek/Seliger/West, Royce/Williams

SB 1886
Senate Conferees: Williams - Chair/Brimer/Carona/Shapiro/Shapleigh

SB 1993
Senate Conferees: Nichols - Chair/Brimer/Patrick, Dan/Uresti/Watson

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

HB 88
Senate Conferees: Hinojosa - Chair/Brimer/Jackson, Mike/Lucio/Seliger

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 21, 2007 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 56 Isett, Carl SPONSOR: Duncan
Relating to the operation of crematory establishments by commercial embalming establishments.

HB 119 Brown, Fred SPONSOR: Ogden
Relating to the exemption from competitive bidding for certain purchases.
(Amended)

HB 142 Jackson, Jim SPONSOR: Carona
Relating to imposition of local sales and use taxes on certain taxable items shipped outside a transit authority.
(Committee Substitute)

HB 264 Phillips SPONSOR: Eltife
Relating to the procedure for rendering certain property for ad valorem taxation if the information contained in the most recently filed rendition statement continues to be accurate.

HB 401 Brown, Betty SPONSOR: Zaffirini
Relating to the use of text messages and other electronic media to commit certain sexual offenses against minors or certain students.

HB 434 Madden SPONSOR: Whitmire
Relating to the appointment of certain employees of the Texas Department of Criminal Justice as peace officers for certain purposes.

HB 567 Puente SPONSOR: Wentworth
Relating to the state registry of paternity.
(Committee Substitute)

HB 887 Giddings SPONSOR: Ellis
Relating to the statute of limitations for the offenses of credit card or debit card abuse, false statement to obtain property or credit, and fraudulent use or possession of identifying information.

HB 1038 Ritter SPONSOR: Fraser
Relating to the operation of the Texas Residential Construction Commission;
providing penalties.
(Committee Substitute/Amended)

HB 1293 Flores SPONSOR: Lucio
Relating to licensing and regulation of event coordinators for combative sports.

HB 1373 Guillen SPONSOR: Zaffirini
Relating to creating the Chronic Kidney Disease Task Force.

HB 1572 Woolley SPONSOR: West, Royce
Relating to an exception from civil discovery for certain records of a law
enforcement agency.

HB 1586 Flores SPONSOR: Lucio
Relating to the creation of the offense of illumination of an aircraft by intense
light.

HB 1734 Goolsby SPONSOR: Lucio
Relating to cancellation or suspension of an alcoholic beverage license or permit.

HB 1930 Keffer, Jim SPONSOR: Fraser
Relating to gifts and grants for financing or assisting the operation of the office of
county attorney in Brown County.

HB 1955 Elkins SPONSOR: Hegar
Relating to the licensing of certain peace officers by the Commission on Law
Enforcement Officer Standards and Education.
(Committee Substitute)

HB 2216 Turner SPONSOR: Shapiro
Relating to the regulation of the sale of certain mobility motor vehicles equipped
to transport a person with a disability.

HB 2341 Truitt SPONSOR: Duncan
Relating to certain investment products made available to certain public school
employees.

HB 2398 Delisi SPONSOR: Wentworth
Relating to the issuance of specialty license plates to immediate family members
of a person who dies while serving in the United States armed forces.

HB 2445 Driver SPONSOR: Williams
Relating to certain employment records maintained by the Commission on Law
Enforcement Officer Standards and Education; providing an administrative
penalty.
(Committee Substitute)

HB 2471 Homer SPONSOR: Deuell
Relating to the treatment and sale of certain bedding.

HB 2622 Ortiz, Jr. SPONSOR: Hinojosa
Relating to eligibility of board members of certain rapid transit authorities to
receive insurance benefits.

HB 2691 Truitt SPONSOR: Uresti
Relating to grants provided to local guardianship programs.

- HB 2694** Hamilton SPONSOR: Janek
Relating to the disaster contingency fund.
(Amended)
- HB 2796** Gonzales SPONSOR: Lucio
Relating to the authority of certain counties to create or finance museums.
- HB 2819** Ritter SPONSOR: Jackson,
Mike
Relating to the management and protection of coastal public land and other coastal resources; providing for administrative penalties.
(Committee Substitute/Amended)
- HB 2945** Murphy SPONSOR: Whitmire
Relating to authorizing a method for certain municipalities to compensate a person for the removal of an on-premise sign as required by the municipality.
- HB 3011** Smith, Wayne SPONSOR: Jackson,
Mike
Relating to the creation of ship channel security districts by certain populous counties.
(Committee Substitute)
- HB 3135** Hughes SPONSOR: Wentworth
Relating to the compensation paid to retired and former judges or justices while assigned as visiting judges in certain courts.
- HB 3350** Geren SPONSOR: West, Royce
Relating to payment of costs incurred in the operation and administration of the Texas Lottery Commission.
(Amended)
- HB 3492** Otto SPONSOR: Janek
Relating to the determination of the total taxable value of property in a school district under the property value study conducted by the comptroller of public accounts.
- HB 3537** Garcia SPONSOR: Hinojosa
Relating to the adoption of a child by a person serving in the military.
- HB 3849** Hilderbran SPONSOR: Hinojosa
Relating to the registration of all-terrain vehicles by the Texas Department of Transportation.
(Committee Substitute)
- HJR 103** Darby SPONSOR: Duncan
Proposing a constitutional amendment providing for the continuation of the constitutional appropriation for facilities and other capital items at Angelo State University on a change in the governance of the university.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 21, 2007 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 155 Pickett SPONSOR: Lucio
Relating to correcting errors in the distribution of benefits by a public retirement system.
(Amended)

HB 590 Delisi SPONSOR: Zaffirini
Relating to standards of conduct for and conflicts of interest of state officers and employees.

HB 888 Giddings SPONSOR: Watson
Relating to the cost of obtaining copies of an injured employee's medical records for use by an ombudsman under the office of injured employee counsel's ombudsman program; providing an administrative violation.
(Committee Substitute)

HB 922 Truitt SPONSOR: Carona
Relating to the power of a municipality to enforce compliance with speed limits by an automated traffic control system.

HB 957 Orr SPONSOR: Ellis
Relating to participation by certain state employees in a default investment product under a deferred compensation plan.
(Committee Substitute)

HB 1052 Callegari SPONSOR: Carona
Relating to requiring warning signs before intersections at which a municipality uses a photographic traffic monitoring system to enforce compliance with a traffic-control signal.

HB 1188 Morrison SPONSOR: Shapiro
Relating to the Texas emerging technology fund.

HB 1316 Goolsby SPONSOR: Carona
Relating to a fee exemption under the Public Accountancy Act for accountants in this state who are employed by certain governmental entities.
(Committee Substitute)

HB 1522 Harless SPONSOR: Williams
Relating to parking a commercial motor vehicle on certain streets.

(Committee Substitute/Amended)

HB 1585 King, Susan SPONSOR: Deuell
Relating to administrative penalties imposed by a public health district or a county for violations of health and safety provisions relating to retail food service.

HB 1678 Madden SPONSOR: Whitmire
Relating to the operation of a system of community supervision.

HB 1944 Coleman SPONSOR: Ellis
Relating to the elimination of sexual assault against inmates confined in a facility operated by or under contract with the Texas Department of Criminal Justice.
(Committee Substitute)

HB 1977 Taylor SPONSOR: Averitt
Relating to the Texas Health Insurance Risk Pool.
(Committee Substitute/Amended)

HB 2010 Rose SPONSOR: Watson
Relating to declaratory relief for businesses in this state for liability for sales and use taxes of other states.

HB 2235 Guillen SPONSOR: Zaffirini
Relating to the creation of a technology center grant program for rural counties.

HB 2328 Woolley SPONSOR: Whitmire
Relating to the offenses of cruelty to livestock and nonlivestock animals.
(Committee Substitute/Amended)

HB 3060 Pena SPONSOR: Watson
Relating to issuance by a court of a capias or a capias pro fine.
(Amended)

HB 3514 Rodriguez SPONSOR: West, Royce
Relating to the disclosure by the Texas Department of Public Safety to appraisal districts of driver's license records and personal identification certificate records, or certain information in those records, for use in determining an individual's eligibility for a residence homestead exemption from ad valorem taxation.

SCR 82 Janek
In memory of Allie Pearl Haney of Roscoe.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 21, 2007 - 6

The Honorable Speaker of the House
House Chamber
Austin, Texas

SB 361	(30 Yeas, 0 Nays)
SB 382	(30 Yeas, 0 Nays)
SB 387	(30 Yeas, 0 Nays)
SB 450	(31 Yeas, 0 Nays)
SB 545	(31 Yeas, 0 Nays)
SB 660	(30 Yeas, 0 Nays)
SB 688	(31 Yeas, 0 Nays)
SB 723	(30 Yeas, 0 Nays)
SB 813	(30 Yeas, 0 Nays)
SB 914	(31 Yeas, 0 Nays)
SB 943	(30 Yeas, 0 Nays)
SB 976	(31 Yeas, 0 Nays)
SB 1097	(31 Yeas, 0 Nays)
SB 1153	(30 Yeas, 0 Nays)
SB 1263	(30 Yeas, 0 Nays)
SB 1424	(31 Yeas, 0 Nays)
SB 1434	(31 Yeas, 0 Nays)
SB 1461	(30 Yeas, 0 Nays)
SB 1533	(30 Yeas, 0 Nays)
SB 1670	(31 Yeas, 0 Nays)
SB 1735	(30 Yeas, 0 Nays)
SB 1781	(30 Yeas, 0 Nays)
SB 1828	(30 Yeas, 0 Nays)
SB 2016	(30 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 12

Senate Conferees: Averitt - Chair/Brimer/Duncan/Eltife/Watson

SB 199

Senate Conferees: Nelson - Chair/Deuell/Shapiro/Shapleigh/Williams

SB 218

Senate Conferees: Carona - Chair/Deuell/Shapiro/Shapleigh/Van de Putte

SB 222

Senate Conferees: Ellis - Chair/Eltife/Fraser/Harris/Hinojosa

SB 344

Senate Conferees: Carona - Chair/Deuell/Nelson/Nichols/Zaffirini

SB 759

Senate Conferees: Nelson - Chair/Deuell/Nichols/Shapleigh/Uresti

SB 763

Senate Conferees: Duncan - Chair/Carona/Hinojosa/Watson/Wentworth

SB 1123

Senate Conferees: Ellis - Chair/Carona/Nichols/Wentworth/West, Royce

SB 1520

Senate Conferees: Wentworth - Chair/Carona/Harris/Hinojosa/Watson

SB 1562

Senate Conferees: Hinojosa - Chair/Averitt/Eltife/Van de Putte/Whitmire

SB 1983

Senate Conferees: Estes - Chair/Averitt/Duncan/Fraser/Seliger

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

HB 447

Senate Conferees: Jackson, Mike - Chair/Brimer/Eltife/Hegar/Whitmire

HB 479

Senate Conferees: Hinojosa - Chair/Eltife/Seliger/Watson/Zaffirini

HB 930

Senate Conferees: Uresti - Chair/Harris/Hinojosa/Watson/Wentworth

HB 1044

Senate Conferees: Ellis - Chair/Carona/Duncan/Harris/Lucio

HB 1090

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

THE SENATE HAS TAKEN THE FOLLOWING OTHER ACTION:

SB 1297

Refused to concur.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 18

Appropriations - **SB 737, SB 992, SB 1640, SB 1719, SB 2031, SB 2033, SJR 57**

Civil Practices - **SB 1305**

Corrections - **SB 1741, SB 1780**

County Affairs - **SB 1207, SB 1380, SB 1498, SB 1510, SB 1769, SB 1972, SB 1984**

Criminal Jurisprudence - **SB 463, SB 789, SB 1116, SB 1622, SB 1737, SB 1740**

Culture, Recreation, and Tourism - **SB 410**

Defense Affairs and State-Federal Relations - **SB 371, SB 516, SB 961, SB 1058, SB 1390, SB 1743, SCR 17, SCR 37, SCR 46**

Elections - **SB 1646, SB 1647, SJR 68**

Environmental Regulation - **SB 1687, SB 1924**

Government Reform - **SB 316**

Higher Education - **SB 114, SB 365, SB 1051, SB 1064, SB 1138, SB 1234, SB 1418, SB 1446, SB 1488, SB 1496, SB 1601, SB 1699, SB 2039, SJR 61**

Judiciary - **SB 232, SB 1048, SB 1125, SB 1411, SB 1483, SB 1655, SB 1951**

Law Enforcement - **SB 798, SB 1722**

Licensing and Administrative Procedures - **SB 1238, SB 1475**

Local Government Ways and Means - **SB 162**

Natural Resources - **SB 610, SB 661, SB 919, SB 1205, SB 1245, SB 1524, SB 1833, SB 1946, SB 1985, SB 2002, SB 2003, SB 2026, SB 2054**

Pensions and Investments - **SB 1575, SB 1913**

Public Education - **SB 50, SB 120, SB 127, SB 217, SB 840, SB 1433, SB 1494, SB 1504, SB 1572, SB 1792, SB 1912**

Public Health - **HCR 206, SB 29, SB 36, SB 155, SB 164, SB 307, SB 364, SB 439, SB 551, SB 623, SB 778, SB 810, SB 973, SB 1095, SB 1186, SB 1274, SB 1566, SB 1597, SB 1658, SB 1696, SB 1714, SB 1879, SCR 28**

State Affairs - **SB 889, SJR 49**

Transportation - **SB 668, SB 1451, SB 1693, SJR 67**

Urban Affairs - **SB 1185, SB 1908**

May 19

Appropriations - **SB 1848, SJR 65**

Border and International Affairs - **SB 2027**

Corrections - **SB 1347**

Defense Affairs and State-Federal Relations - **SB 685**

Environmental Regulation - **SB 359, SB 1177**

Pensions and Investments - **SB 1846**

Public Education - **SB 960, SB 962**

State Affairs - **SB 769**

ENGROSSED

May 18 - HB 3990, HB 4034, HB 4088, HB 4096, HB 4126, HB 4134

ENROLLED

May 18 - HB 73, HB 167, HB 195, HB 312, HB 342, HB 417, HB 495, HB 496, HB 576, HB 585, HB 654, HB 693, HB 1010, HB 1023, HB 1045, HB 1067, HB 1070, HB 1157, HB 1178, HB 1230, HB 1412, HB 1579, HB 1717, HB 1741, HB 1787, HB 1820, HB 1844, HB 1871, HB 1910, HB 2056, HB 2075, HB 2163, HB 2168, HB 2212, HB 2251, HB 2439, HB 2468, HB 2514, HB 2546, HB 2559, HB 2611, HB 2625, HB 2636, HB 2735, HB 2799, HB 3074, HB 3158, HB 3281, HB 3322, HB 3601, HCR 136, HCR 159, HCR 256, HCR 259, HJR 69, HB 776

May 20 - HB 1530, HB 1652, HB 1928, HB 2931

SIGNED BY THE GOVERNOR

May 18 - HB 11, HB 85, HB 121, HB 823, HB 1003, HB 1006, HB 1344, HB 1390, HB 1505, HCR 9, HCR 10, HCR 123, HCR 160, HCR 168, HCR 171, HCR 174, HCR 175, HCR 178, HCR 179, HCR 182, HCR 183, HCR 185, HCR 188, HCR 195

VETOED BY THE GOVERNOR

May 18 - HB 1892, HCR 230

