

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-NINTH DAY

(Thursday, May 28, 2009)

The Senate met at 1:42 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend José M. Villalón, San Martin de Porras Catholic Church, Weslaco, offered the invocation as follows:

Let us place ourselves in the presence of our creator and God. Before the existence of space, time, and life, Lord, Your love existed and never had any barriers. Your love exploded in the mist of chaos and darkness and gave birth to our very existence. We were created out of pure love, not logic, pure innocence, not guilt. We were given a purpose to be and to become, not created by mistake or accident. We are Your greatest achievement next to all Your angels and celestial beings. And for this we thank You. And we thank You for this day, for each day that is given to us is a gift and an opportunity to continue to work and care for our families, our world, country, and especially this great state of ours. Lord of all mystery and creation, I call upon Your presence and ask You to send down the fire of truth, love, the spirit of knowledge and wisdom, and, above all, the gift of humility to listen attentively to one another and to truly understand before judging one another. We place at Your feet all the issues and concerns that will be presented today. I pray that everyone here can experience Your counsel and direction, that every decision that is made here is made for the good of the many and not the few. We thank You, almighty one, for the blessings that have been given to this great country and state of ours through the work of these people and for the blessings that are on their way today and tomorrow. Lord, make Yourself known and felt in this place of power and authority for which You have granted. Let us never forget our Alphas and Omegas, our beginnings and ends, and who created us. And,

Lord, help us remember the reality that no walls, no laws, and no power will ever separate us from You or keep You away from our hearts and minds. For this I humbly pray in Your holy name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-SPONSOR OF HOUSE BILL 3433

On motion of Senator Watson, Senator Uresti will be shown as Co-sponsor of **HB 3433**.

CO-SPONSOR OF HOUSE BILL 3613

On motion of Senator Williams, Senator Hinojosa will be shown as Co-sponsor of **HB 3613**.

CO-SPONSOR OF HOUSE BILL 3751

On motion of Senator Shapiro, Senator Uresti will be shown as Co-sponsor of **HB 3751**.

CO-SPONSORS OF HOUSE BILL 4765

On motion of Senator Patrick, Senators Eltife, Estes, Huffman, Nelson, and Nichols will be shown as Co-sponsors of **HB 4765**.

SENATE RESOLUTION 1012

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Olive Stephens for more than a half century of outstanding service to the citizens of Shady Shores; and

WHEREAS, Recently elected to her 20th term as mayor of Shady Shores at the age of 92, Olive Stephens has played an important role in the town's history since before its incorporation in 1960; Mrs. Stephens and her family bought land in the area in 1957, and she served as a member of the city's first town council in 1963; and

WHEREAS, Mrs. Stephens was first elected mayor in 1973, and she was able to forestall increases in city taxes until 2002 by conducting fund-raising events, including garage sales, pancake dinners, Friday night dominoes, and ceramic classes where residents sold their wares to fund the fire department; the town was able to pay for a new community center in cash because of her efforts; and

WHEREAS, Mrs. Stephens has received numerous honors for her legacy of service, including the Mildred and Taylor Hawk Award from the Denton County Historical Foundation and the United Way Life Membership Certificate; the Denton Independent School District has named an elementary school in her honor; and

WHEREAS, An exceptional public servant, Mrs. Stephens is truly deserving of recognition for her dedication and her many accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Olive Stephens on her many years of exemplary service to the citizens of Shady Shores and extend to her best wishes for continued success in all her future endeavors; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of high regard from the Texas Senate.

SR 1012 was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate Olive Stephens, Mayor of Shady Shores, accompanied by Jerrahl and James McBride.

The Senate welcomed its guests.

SENATE RESOLUTION 964

Senator Watson offered the following resolution:

WHEREAS, The Bureau of Economic Geology at The University of Texas at Austin, the oldest research unit at the school, is celebrating its centennial in 2009; and

WHEREAS, Established by The University of Texas Board of Regents in 1909, the bureau is now part of the John A. and Katherine G. Jackson School of Geosciences; members of the bureau staff contribute to the state and to the advancement of science through the undertaking of basic and applied research related to energy and mineral resources, water resources, coastal processes, and environmental issues; in addition, the staff provides a wide range of advisory and technical services to industries, nonprofit organizations, and local, state, and federal government agencies; and

WHEREAS, Since its inception, the bureau has performed State Geological Survey functions as requested by the Texas Legislature, providing the geoscience information needed for the crafting of state energy and other policies; and

WHEREAS, Bureau staff also conduct research for various industry partners who lease mineral rights from the state, including independent operators responsible for most of the oil and gas production in Texas, and such initiatives create enhanced royalty income and severance tax revenue; and

WHEREAS, Along with its service to elected officials, government employees, and individuals in private industry, the bureau provides outstanding educational opportunities for undergraduate and graduate students, supports science fairs and other programs oriented toward elementary and secondary students, fosters the professional development of teachers, and promotes professional education through its staff's engagement in symposia, conferences, and the like; and

WHEREAS, A major research institution, the bureau maintains the largest volume of subsurface core samples in the country, while its publications program has produced hundreds of maps, reports, and other publications; and

WHEREAS, Standing on the threshold of its second century, the Bureau of Economic Geology is committed to addressing the issues of energy, water, and the environment—three fundamental challenges that are confronting Texas and the rest of the world; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commemorate the 100th anniversary of the founding of the Bureau of Economic Geology and extend to its staff sincere best wishes for continued success in all their endeavors; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the bureau as an expression of high regard from the Texas Senate.

SR 964 was again read.

The resolution was previously adopted on Wednesday, May 20, 2009.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate Dr. Scott Tinker, Director of the Bureau of Economic Geology and State Geologist; Jay Kipper; Eric Potter; Sigrid Clift; and Wanda LaPlante.

The Senate welcomed its guests.

SENATE RESOLUTION 1051

Senator Watson offered the following resolution:

WHEREAS, The University Interscholastic League is celebrating its 100th anniversary beginning in the summer of 2009; and

WHEREAS, The organization traces its roots back to June 7, 1909, when The University of Texas Board of Regents voted funds for the creation of an extension bureau; this led to the establishment of two programs, the Debating League of Texas High Schools and the Interscholastic Athletic Association, which merged in 1913 to form the University Interscholastic League; and

WHEREAS, Now operating under the vice president for diversity and community engagement, the University Interscholastic League is the largest organization of its kind in the nation; providing Texas high school students with opportunities for competition in academics, athletics, and music, the organization oversees extracurricular contests in a wide array of fields; by fostering a natural desire to excel, the competitions encourage students to hone their talents and cultivate skills that will forever enrich their lives; involvement in the University Interscholastic League also helps young people to develop such invaluable traits as self-confidence, self-discipline, perseverance, and a sense of fair play; and

WHEREAS, The University Interscholastic League annually provides over two million educational competition opportunities for Texas student participants, and those who have shared in that experience include Lyndon B. Johnson, Ann Richards, Barbara Jordan, Earl Campbell, Bill Moyers, and Sandra Day O'Connor; moreover, the Texas Interscholastic League Foundation has presented scholarships to gifted students taking part in the University Interscholastic League Academic State Meet for some five decades; today, the foundation annually awards more than a million dollars in grants to over 600 students who will be attending colleges and universities in Texas; and

WHEREAS, At its centennial, the University Interscholastic League remains an institution of immeasurable importance to students in Texas public schools, and it is a privilege to recognize its continuing role in shaping the future leaders of the Lone Star State; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commemorate the 100th anniversary of the University Interscholastic League and extend to all those associated with the organization sincere best wishes for continued success in all their endeavors; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of the University Interscholastic League.

SR 1051 was again read.

The resolution was previously adopted on Wednesday, May 27, 2009.

CONFERENCE COMMITTEE ON HOUSE BILL 987

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 987** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 987** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Wentworth, Nichols, Duncan, and Ellis.

HOUSE CONCURRENT RESOLUTION 254

The President laid before the Senate the following resolution:

WHEREAS, The Texas Commission on the Arts has announced the 2009 and 2010 appointments for the positions of State Poet Laureate, State Musician, State Two-Dimensional Artist, and State Three-Dimensional Artist; and

WHEREAS, Honorees are chosen for the exceptional quality of their work and for their outstanding commitment to the arts in Texas; nominees must either be native Texans or have resided in the state for at least five years; in addition, they must have received critical recognition from state, regional, and national publications, and they must have attained the highest levels of excellence in their respective disciplines; and

WHEREAS, The 2009 Texas State Poet Laureate is Paul Ruffin, a Distinguished Professor of English at Sam Houston State University; the author of six acclaimed books of poetry as well as several volumes of fiction and nonfiction, Mr. Ruffin has published poems in hundreds of journals and anthologies; he is also the founder and editor of *The Texas Review* and the director of Texas Review Press; and

WHEREAS, Willie Nelson is the 2009 Texas State Musician; this legendary Texas performer was playing the guitar at the age of 6 and performing at 10; after establishing himself in Nashville as a hit songwriter, he returned to Texas and soon became world-famous as an interpreter of his own songs and as an icon of the outlaw country music movement; he has further distinguished himself as a film and television actor and entrepreneur, as well as an ever-popular touring concert artist who has been involved in numerous charity events such as FarmAid; and

WHEREAS, The 2009 Texas State Two-Dimensional Artist is Rene Alvarado; born in Mexico, he came to the United States with his family as a boy, and his work powerfully evokes the values and heritage of his native country, finding universal resonance in the rich particularity of Mexican culture; his work has been featured in galleries and exhibitions throughout Texas and the Southwest; and

WHEREAS, Eliseo Garcia has been selected as the 2009 Texas State Three-Dimensional Artist; his inspiring bas-relief sculptures pay homage to the importance of family, love, and spirituality while reflecting the ancient cultural traditions of the Aztec and Mayan civilizations; often carved out of Texas limestone, his works are on permanent display in arts centers, hospitals, libraries, and other public buildings across the state; and

WHEREAS, Fort Worth native and Denton resident Karla K. Morton has been named as the 2010 Texas State Poet Laureate; a songwriter and children's book author as well as a celebrated poet, Ms. Morton performs her poetry across the state and has recorded her poems with musical accompaniment; she is a founder of the Denton Poet's Assembly and a member of the board of directors of the Greater Denton Arts Council; and

WHEREAS, Sara Hickman of Austin will be the 2010 Texas State Musician; this talented singer-songwriter has recorded many critically acclaimed albums; the daughter of a painter and a weaver, the multitalented Ms. Hickman is also a painter; she supports many social causes through her work and regularly performs and records music for children; and

WHEREAS, Austin painter Marc Burckhardt has been named as the 2010 Texas State Two-Dimensional Artist; born in Germany and raised in Texas, Mr. Burckhardt combines European imagery with thematic material from contemporary American life; his mischievous wit is enhanced by his adoption of the glazing and varnishing techniques of the old masters, and his work has been featured in galleries and shows around the nation and across the world; and

WHEREAS, The 2010 Texas State Three-Dimensional Artist will be John Bennett, who began sculpting figures in 1976 and cast his first bronze in 1985; acclaimed for his sculptures of women, he has created works depicting women from all walks of life, from Old West legend Annie Oakley to 98-year-old Alice Reeves, a former schoolteacher and granddaughter of a slave; one of his pieces was selected by the Women's Museum for display at the White House in 1999; and

WHEREAS, The men and women who have been selected to hold these prestigious posts for the next two years have all greatly contributed to the vibrant cultural life of the Lone Star State, and Texas is indeed fortunate to be home to these talented artists; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby honor the 2009 and 2010 appointees to the positions of State Poet Laureate, State Musician, State Two-Dimensional Artist, and State Three-Dimensional Artist and extend to each of them sincere best wishes for continued creativity and achievement.

WILLIAMS

HCR 254 was read.

On motion of Senator Williams, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

GUESTS PRESENTED

Senator Williams, joined by Senator Nelson, was recognized and introduced to the Senate Paul Ruffin, 2009 Poet Laureate; Rene Alvarado, 2009 Two-Dimensional Artist; Eliseo Garcia, 2009 Three-Dimensional Artist; Karla K. Morton, 2010 Poet Laureate; Sara Hickman, 2010 Musician; Marc Burckhardt, 2010 Two-Dimensional Artist; John Bennett, 2010 Three-Dimensional Artist; and Martha Fowler, granddaughter of Willie Nelson, 2009 Musician.

The Senate welcomed its guests.

CONFERENCE COMMITTEE ON HOUSE BILL 4498

Senator Nichols called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4498** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 4498** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Eltife, Jackson, Patrick, and Shapleigh.

CONFERENCE COMMITTEE ON HOUSE BILL 300

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 300** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 300** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Carona, Nichols, Watson, and Hinojosa.

PHYSICIAN OF THE DAY

Senator Fraser was recognized and presented Dr. David Pope of Kerrville as the Physician of the Day.

The Senate welcomed Dr. Pope and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

SENATE BILL 1009 WITH HOUSE AMENDMENTS

Senator Deuell called **SB 1009** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1009** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the continuation and functions of the Commission on Jail Standards.

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

SECTION 1. Section 511.003, Government Code, is amended to read as follows:

Sec. 511.003. SUNSET PROVISION. The Commission on Jail Standards is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2021 ~~[2009]~~.

SECTION 2. Sections 511.004(g), (h), (i), and (j), Government Code, are amended to read as follows:

(g) A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a [an occupational] ~~[an occupational]~~ regulatory agency in the field of law enforcement;

(2) is employed by or participates in the management of a business entity, county jail, or other organization regulated by the commission or receiving funds from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(h) A person who is appointed to and qualifies for [To be eligible to take] office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the [s-a] person completes [appointed to the commission must complete at least one course of] ~~[appointed to the commission must complete at least one course of]~~ a training program that complies with Subsection (i).

(i) The training program required by Subsection (h) must provide information to the person regarding:

(1) this chapter [the enabling legislation that created the commission];

(2) the programs, functions, rules, and budget of [operated by] the commission;

(3) the results of the most recent formal audit [role and functions] of the commission;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest [~~rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority~~]; and

(5) [~~the current budget for the commission;~~

~~(6) the results of the most recent formal audit of the commission;~~

~~(7) the requirements of the:~~

~~[(A) open meetings law, Chapter 551;~~

~~[(B) open records law, Chapter 552; and~~

~~[(C) administrative procedure law, Chapter 2001;~~

~~(8) the requirements of the conflict of interests laws and other laws relating to public officials; and~~

~~(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.~~

(j) A person appointed to the commission is entitled to reimbursement, ~~for travel expenses incurred in attending the training program required by Subsection (h)]~~ as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program required by Subsection (h) regardless of whether attendance at the program occurs before or after [and as if] the person qualifies for office [were a member of the commission].

SECTION 3. Section 511.0041(a), Government Code, is amended to read as follows:

(a) It is a ground for removal from the commission if a member:

(1) does not have at the time of taking office [~~appointment~~] the qualifications required by Section 511.004;

(2) does not maintain during service on the commission the qualifications required by Section 511.004;

(3) is ineligible for membership under [~~violates a prohibition established by~~] Section 511.004(g) or 511.0042;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved [~~unless the absence is excused~~] by a majority vote of the commission.

SECTION 4. Section 511.0042, Government Code, is amended to read as follows:

Sec. 511.0042. CONFLICT OF INTEREST. (a) A person may not be a member of the commission and may not be a commission 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 [An] officer, employee, or paid consultant of a Texas trade association in the field of county corrections; or

~~(2) the person's [may not be a member of the commission or an employee of the commission 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 17, of the position classification salary schedule.~~

~~[(b) A person who is the] spouse is [of] an officer, manager, or paid consultant of a Texas trade association in the field of county corrections [may not be a commission member and may not be a commission employee 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 17, of the position classification salary schedule].~~

~~(b) In [(c) For the purposes of] this section, "Texas trade association" means [a Texas trade association is] a [nonprofit,] 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.~~

~~(c) [(d)] A person may not be [serve as] a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.~~

SECTION 5. Chapter 511, Government Code, is amended by adding Section 511.0061 to read as follows:

Sec. 511.0061. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

SECTION 6. Section 511.0071, Government Code, is amended by amending Subsections (a), (d), (e), and (f) and adding Subsection (a-1) to read as follows:

(a) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints regarding the commission and complaints regarding jails under the commission's jurisdiction are filed with and resolved by the commission. The commission shall make the information available:

(1) to the public, inmates, county officials, and appropriate state agencies; and

(2) on any publicly accessible Internet website maintained by the commission.

(a-1) The commission shall adopt rules and procedures regarding the receipt, investigation, resolution, and disclosure to the public of complaints regarding the commission and complaints regarding jails under the commission's jurisdiction that are filed with the commission. The commission shall:

(1) prescribe a form or forms on which written complaints regarding the commission and complaints regarding jails under the commission's jurisdiction may be filed with the commission;

(2) keep an information file in accordance with Subsection (f) regarding each complaint filed with the commission regarding the commission or a jail under the commission's jurisdiction;

(3) develop procedures for prioritizing complaints filed with the commission and a reasonable time frame for responding to those complaints;

(4) maintain a system for promptly and efficiently acting on complaints filed with the commission;

(5) develop a procedure for tracking and analyzing all complaints filed with the commission, according to criteria that must include:

(A) the reason for or origin of complaints;

(B) the average number of days that elapse between the date on which complaints are filed, the date on which the commission first investigates or otherwise responds to complaints, and the date on which complaints are resolved;

(C) the outcome of investigations or the resolution of complaints, including dismissals and commission actions resulting from complaints;

(D) the number of pending complaints at the close of each fiscal year;
and

(E) a list of complaint topics that the commission does not have jurisdiction to investigate or resolve; and

(6) regularly prepare and distribute to members of the commission a report containing a summary of the information compiled under Subdivision (5).

~~(d) [The commission shall keep an information file about each complaint filed with the commission that the commission has authority to resolve. The commission is not required to keep an information file about a complaint to the commission from or related to a prisoner of a county or municipal jail.]~~ The commission shall adopt rules and procedures regarding the referral of [refer] a complaint filed with the commission from or related to a prisoner to the appropriate local agency for investigation and resolution. The commission [and] may perform a special inspection of a facility named in the complaint to determine compliance with commission requirements.

(e) If a written complaint is filed with the commission that the commission has authority to resolve, the commission at least quarterly and until final disposition of the complaint shall notify the parties to the complaint of the status of the complaint, unless the notice would jeopardize an undercover investigation. This subsection does not apply to a complaint referred to a local agency under Subsection (d).

(f) The commission shall collect and maintain information about each complaint received by the commission regarding the commission or a jail under the commission's jurisdiction, including:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint;

and

(6) for a complaint for which the agency took no action, an explanation of the reason the complaint was closed without action.

SECTION 7. Section 511.008(e), Government Code, is amended to read as follows:

(e) The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director [~~define the respective responsibilities of the commission~~] and the staff of the commission.

SECTION 8. Chapter 511, Government Code, is amended by adding Section 511.0085 to read as follows:

Sec. 511.0085. RISK FACTORS; RISK ASSESSMENT PLAN. (a) The commission shall develop a comprehensive set of risk factors to use in assessing the overall risk level of each jail under the commission's jurisdiction. The set of risk factors must include:

(1) a history of the jail's compliance with state law and commission rules, standards, and procedures;

(2) the population of the jail;

(3) the number and nature of complaints regarding the jail, including complaints regarding a violation of any required ratio of correctional officers to inmates;

(4) problems with the jail's internal grievance procedures;

(5) available mental and medical health reports relating to inmates in the jail, including reports relating to infectious disease or pregnant inmates;

(6) recent turnover among sheriffs and jail staff;

(7) inmate escapes from the jail;

(8) the number and nature of inmate deaths at the jail, including the results of the investigations of those deaths; and

(9) whether the jail is in compliance with commission rules, standards developed by the Texas Correctional Office on Offenders with Medical or Mental Impairments, and the requirements of Article 16.22, Code of Criminal Procedure, regarding screening and assessment protocols for the early identification of and reports concerning persons with mental illness.

(b) The commission shall use the set of risk factors developed under Subsection (a) to guide the inspections process for all jails under the commission's jurisdiction by:

(1) establishing a risk assessment plan to use in assessing the overall risk level of each jail; and

(2) regularly monitoring the overall risk level of each jail.

SECTION 9. Section 511.009(a), Government Code, is amended to read as follows:

(a) The commission shall:

(1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;

(2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;

(3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;

(4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;

- (5) revise, amend, or change rules and procedures if necessary;
- (6) provide to local government officials consultation on and technical assistance for county jails;
- (7) review and comment on plans for the construction and major modification or renovation of county jails;
- (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
- (9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
- (10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
- (11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
- (12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;
- (13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;
- (14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails; ~~and~~
- (15) schedule announced and unannounced inspections of jails under the commission's [its] jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;
- (16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:
 - (A) common issues concerning jail administration;
 - (B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and
 - (C) solutions to operational challenges for jails;
- (17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure; and
- (18) adopt reasonable rules and procedures establishing minimum requirements for jails to:
 - (A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant [based on the jail's history of compliance with commission standards and other high risk factors identified by the commission].

SECTION 10. Section 511.0101(a), Government Code, is amended to read as follows:

(a) Each county shall submit to the commission on or before the fifth day of each month a report containing the following information:

(1) the number of prisoners confined in the county jail on the first day of the month, classified on the basis of the following categories:

(A) total prisoners;

(B) pretrial Class C misdemeanor offenders;

(C) pretrial Class A and B misdemeanor offenders;

(D) convicted misdemeanor offenders;

(E) felony offenders whose penalty has been reduced to a misdemeanor;

(F) pretrial felony offenders;

(G) convicted felony offenders;

(H) prisoners detained on bench warrants;

(I) prisoners detained for parole violations;

(J) prisoners detained for federal officers;

(K) prisoners awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required for transfer have been completed;

(L) prisoners detained after having been transferred from another jail and for whom the commission has made a payment under Subchapter F, Chapter 499, Government Code; and

(M) other prisoners;

(2) the total capacity of the county jail on the first day of the month; ~~and~~

(3) the total number of prisoners who were confined in the county jail during the preceding month, based on a count conducted on each day of that month, who were known or had been determined to be pregnant; and

(4) certification by the reporting official that the information in the report is accurate.

SECTION 11. Chapter 511, Government Code, is amended by adding Section 511.0115 to read as follows:

Sec. 511.0115. PUBLIC INFORMATION ABOUT COMPLIANCE STATUS OF JAILS. The commission shall provide information to the public concerning whether jails under the commission's jurisdiction are in compliance with state law and the rules, standards, and procedures of the commission:

(1) on any publicly accessible Internet website maintained by the commission; and

(2) through other formats, including newsletters or press releases, as determined by the commission.

SECTION 12. Chapter 511, Government Code, is amended by adding Section 511.018 to read as follows:

Sec. 511.018. ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must 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 commission shall designate a trained person to:

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

(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 commission.

SECTION 13. Section 511.0071(c), Government Code, is repealed.

SECTION 14. The change in law made by Section 511.004(h), Government Code, as amended by this Act, regarding training for members of the Commission on Jail Standards does not affect the entitlement of a member serving on the commission immediately before September 1, 2009, to continue to serve and function as a member of the commission for the remainder of the member's term, unless otherwise removed as provided by law. The change in law described by Section 511.004(h), Government Code, applies only to a member appointed or reappointed on or after September 1, 2009.

SECTION 15. The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Commission on Jail Standards do not affect the entitlement of a member serving on the commission immediately before September 1, 2009, to continue to serve and function as a member of the commission 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, 2009.

SECTION 16. This Act takes effect September 1, 2009.

Floor Amendment No. 1

Amend **CSSB 1009** (House committee printing) in SECTION 9 of the bill as follows:

(1) In added Section 511.009(a)(17), Government Code (page 12, line 22), strike "and".

(2) In added Section 511.009(a)(18), Government Code (page 13, lines 3 through 5), strike "~~[based on the jail's history of compliance with commission standards and other high risk factors identified by the commission].~~" and substitute ";
and".

(3) Immediately following added Section 511.009(a)(18), Government Code (page 13, between lines 5 and 6), insert the following:

(19) adopt reasonable rules establishing minimum standards for contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including rules that prohibit a sheriff from contracting with another entity to provide food services to or operate a commissary in a jail if the entity or a principal or owner of the entity has been convicted of a criminal offense under the laws of this state the prosecution of which:

(A) implicated an official of any county of this state; or

(B) involved a contract between the entity and a sheriff of any county of this state for the provision of food services to or the operation of a commissary in a jail [based on the jail's history of compliance with commission standards and other high risk factors identified by the commission].

Floor Amendment No. 2

Amend **CSSB 1009** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 511, Government Code, is amended by adding Section 511.0102 to read as follows:

Sec. 511.0102. WAIVER OF CERTAIN PRISONERS IN CALCULATING JAIL POPULATION FOR COMPLIANCE DETERMINATIONS. In determining whether a county jail complies with a state law or a rule, standard, or procedure of the commission that is based on, or includes as a factor in compliance, the population of the jail, the commission may not include in the population of the jail any prisoner who is:

(1) detained for only a technical violation of the conditions of the prisoner's parole; or

(2) described by Section 511.0101(a)(1)(K).

SECTION _____. Section 511.0102, Government Code, as added by this Act, applies only to a compliance determination that is made on or after September 1, 2009. A compliance determination that is made before September 1, 2009, is governed by the law in effect at the time the compliance determination is made, and that law is continued in effect for that purpose.

Floor Amendment No. 3

Amend **CSSB 1009** (House committee printing) as follows:

(1) In the recital to SECTION 12 of the bill (page 14, line 27), strike "Section 511.018" and substitute "Sections 511.018 and 511.019".

(2) In SECTION 12 of the bill, immediately following added Section 511.018, Government Code (page 15, between lines 22 and 23), insert the following:

Sec. 511.019. PUBLIC ACCESS TO INFORMATION REGARDING JAIL OPERATIONS. The commission shall adopt rules that require a jail under the commission's jurisdiction to allow members of the public reasonable access to a live

person employed by the jail, in person or by telephone and during reasonable business hours seven days a week, to obtain publicly available information concerning the operation of the jail, including the jail's visitation policies.

Floor Amendment No. 4

Amend Floor Amendment No. 3 to **CSSB 1009** by Olivo in added Section 511.019, Government Code (page 1, line 10) by striking "adopt rules" and substituting "review existing commission rules and determine whether it is necessary to adopt new rules".

Floor Amendment No. 5

Amend Amendment No. 1 by Madden to **CSSB 1009** in item (3) of the amendment by striking lines 12-26 of the amendment and substituting the following:

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety [based on the jail's history of compliance with commission standards and other high risk factors identified by the commission].

Floor Amendment No. 1 on Third Reading

Amend **CSSB 1009** (House committee printing) on third reading as follows:

(1) In the recital to SECTION 12 of the bill (page 14, line 27), strike "Section 511.018" and substitute "Sections 511.018 and 511.019".

(2) In SECTION 12 of the bill, immediately following added Section 511.018, Government Code (page 15, between lines 22 and 23), insert the following:

Sec. 511.019. STUDY REGARDING COMMISSARY PRICING POLICIES.

(a) The commission shall conduct a study regarding:

(1) the policies of county jails and of private facilities housing county inmates under contract with a county relating to the prices at which items are offered for sale at a commissary operated by or under contract with the jail or private facility; and

(2) whether the policies described by Subdivision (1) ensure that the commissary offers items for sale to inmates at a reasonable price.

(b) In conducting the study required by this section, the commission shall examine a cross-section of county jails and private facilities, including jails and private facilities in urban and rural counties and counties with a small or large population.

(c) Not later than September 1, 2010, the commission shall report the results of the study conducted under this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees in the senate and house of representatives that have primary jurisdiction over corrections. The report may include recommendations for the adoption of rules by the commission or for legislation to address any concerns discussed in the report.

(d) This section expires October 1, 2010.

Floor Amendment No. 2 on Third Reading

Amend **CSSB 1009** on third reading by striking added Section 511.0102, Government Code, as added by Amendment No. 2 to C.S.S.B. No. 1009 by Martinez Fischer, and substituting:

Sec. 511.0102. WAIVER OF CERTAIN PRISONERS IN CALCULATING JAIL POPULATION FOR COMPLIANCE DETERMINATIONS. (a) The commission may:

(1) grant a variance to a rule, standard, or procedure of the commission that is based on, or includes as a factor in compliance, the population of the jail; and

(2) allow a jail to exclude from the calculation of the population of the jail any prisoner who is:

(A) detained for only a technical violation of the conditions of the prisoner's parole; or

(B) described by Section 511.0101(a)(1)(K).

(b) The commission may not grant a variance under Subsection (a)(1) that would result in an inadequate number of corrections officers being available to provide safe, suitable, and sanitary conditions in a jail.

(c) For each circumstance in which the commission determines that a county jail does not comply with a rule, standard, or procedure of the commission that is based on, or includes as a factor in compliance, the population of the jail, the commission shall:

(1) determine whether the jail would be in compliance if the jail excluded from the calculation of the population of the jail any prisoner described by Subsection (a)(2); and

(2) notify the jail of the determination made under Subdivision (1).

The amendments were read.

Senator Deuell moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1009** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Hegar, Estes, Whitmire, and Eltife.

SENATE BILL 1219 WITH HOUSE AMENDMENT

Senator Averitt called **SB 1219** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1219** as follows:

On page 1, line 12, strike the period and insert the following:

"provided that the total amount of instruction is no less than 14 hours in total."

The amendment was read.

Senator Averitt moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1219** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; West, Van de Putte, Williams, and Shapiro.

SENATE BILL 328 WITH HOUSE AMENDMENTS

Senator Carona called **SB 328** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 328** (House committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 521.341, Transportation Code, is amended to read as follows:

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of:

- (1) an offense under Section 19.05, Penal Code, committed as a result of the holder's criminally negligent operation of a motor vehicle;
- (2) an offense under Section 38.04, Penal Code, if the holder used a motor vehicle in the commission of the offense;
- (3) an offense under Section 49.04, 49.045, or 49.08, Penal Code;
- (4) an offense under Section 49.07, Penal Code, if the holder used a motor vehicle in the commission of the offense;
- (5) an offense punishable as a felony under the motor vehicle laws of this state;
- (6) an offense under Section 550.021;
- (7) an offense under Section 521.451 or 521.453; or
- (8) an offense under Section 19.04, Penal Code, if the holder used a motor vehicle in the commission of the offense.

(b) Sections 521.342(a) and (b), Transportation Code, are amended to read as follows:

(a) Except as provided by Section 521.344, the license of a person who was under 21 years of age at the time of the offense, other than an offense classified as a misdemeanor punishable by fine only, is automatically suspended on conviction of:

(1) an offense under Section 49.04, 49.045, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;

(2) an offense under the Alcoholic Beverage Code, other than an offense to which Section 106.071 of that code applies, involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;

(3) a misdemeanor offense under Chapter 481, Health and Safety Code, for which Subchapter P does not require the automatic suspension of the license;

(4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or

(5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

(c) Sections 521.344(a), (c), and (i), Transportation Code, are amended to read as follows:

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this chapter. The court may not extend the credit to a person:

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

(2) whose period of suspension is governed by Section 521.342(b).

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Section 13, Article 42.12, Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

(d) Sections 13(h) and (n), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver

in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who was [~~is~~] younger than 21 years of age at the time of the offense and was convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

(1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and

(2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

(e) The changes in law made by this section to Sections 521.341, 521.342, and 521.344, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before the effective date of this Act.

Floor Amendment No. 2

Amend **SB 328** (House committee printing) as follows:

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

SECTION _____. This Act shall be known as the Nicole "Lilly" Lalime Act.

SECTION _____. Article 18.01, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (j) to read as follows:

(c) A search warrant may not be issued under Article 18.02(10) ~~[pursuant to Subdivision (10) of Article 18.02 of this code]~~ unless the sworn affidavit required by Subsection (b) ~~[of this article]~~ sets forth sufficient facts to establish probable cause: (1) that a specific offense has been committed, (2) that the specifically described property or items that are to be searched for or seized constitute evidence of that offense or evidence that a particular person committed that offense, and (3) that the property or items constituting evidence to be searched for or seized are located at or on the particular person, place, or thing to be searched. Except as provided by Subsections (d), ~~[and] (i), and (j) [of this article]~~, only a judge of a municipal court of record or a county court who is an attorney licensed by the State of Texas, a statutory county court judge, a district court judge, a judge of the Court of Criminal Appeals, including the presiding judge, or a justice of the Supreme Court of Texas, including the chief justice, may issue warrants under Article 18.02(10) ~~[pursuant to Subdivision (10), Article 18.02 of this code]~~.

(j) Any magistrate who is an attorney licensed by this state may issue a search warrant under Article 18.02(10) to collect a blood specimen from a person who:

(1) is arrested for an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code; and

(2) refuses to submit to a breath or blood alcohol test.

SECTION _____. Sections 724.012(b) and (d), Transportation Code, are amended to read as follows:

(b) A peace officer shall require the taking of a specimen of the person's breath or blood under any of the following circumstances if:-

~~[(4)]~~ the officer arrests the person for an offense under Chapter 49, Penal Code, involving the operation of a motor vehicle or a watercraft and the person refuses the officer's request to submit to the taking of a specimen voluntarily:-

(1) ~~[(2)]~~ the person was the operator of a motor vehicle or a watercraft involved in an accident that the officer reasonably believes occurred as a result of the offense and,

~~[(3)]~~ at the time of the arrest, the officer reasonably believes that as a direct result of the accident:

(A) any individual has died or will die; ~~or~~

(B) an individual other than the person has suffered serious bodily injury; or

(C) an individual other than the person has suffered bodily injury and been transported to a hospital or other medical facility for medical treatment;

(2) the offense for which the officer arrests the person is an offense under Section 49.045, Penal Code; or

(3) at the time of the arrest, the officer possesses or receives reliable information from a credible source that the person:

(A) has been previously convicted of or placed on deferred adjudication community supervision for an offense under Section 49.045, 49.07, or 49.08, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections; or

(B) on two or more occasions, has been previously convicted of or placed on deferred adjudication community supervision for an offense under Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections [and

~~[(4) the person refuses the officer's request to submit to the taking of a specimen voluntarily].~~

(d) In this section, "bodily injury" and "serious bodily injury" have [has] the meanings [meaning] assigned by Section 1.07, Penal Code.

SECTION _____. Section 724.017, Transportation Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) If the blood specimen was taken according to recognized medical procedures, the [The] person who takes the blood specimen under this chapter, the facility that employs the person who takes the blood specimen, or the hospital where the blood specimen is taken[-] is immune from civil liability [not liable] for damages arising from the taking of the blood specimen at the request or order of the peace officer or pursuant to a search warrant [to take the blood specimen] as provided by this chapter and is not subject to discipline by any licensing or accrediting agency or body [if the blood specimen was taken according to recognized medical procedures]. This subsection does not relieve a person from liability for negligence in the taking of a blood specimen. The taking of a specimen from a person who objects to the taking of the specimen or who is resisting the taking of the specimen does not in itself constitute negligence and may not be considered evidence of negligence.

(d) A person whose blood specimen is taken under this chapter in a hospital is not considered to be present in the hospital for medical screening or treatment unless the appropriate hospital personnel determine that medical screening or treatment is required for proper medical care of the person.

(2) In SECTION 12 of the bill (page 7, line 12), strike "The changes in law to Chapter 524" and substitute the following:

(a) The change in law to Article 18.01, Code of Criminal Procedure, applies only to a search warrant issued on or after the effective date of this Act. A search warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

(b) The changes in law to Chapter 524 and Section 724.012

Floor Amendment No. 1 on Third Reading

Amend **SB 328** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 724.017, Transportation Code, is amended to read as follows:

Sec. 724.017. **TAKING OF BLOOD SPECIMEN.** (a) Only the following [a physician, qualified technician, chemist, registered professional nurse, or licensed vocational nurse] may take a blood specimen at the request or order of a peace officer under this chapter:

- (1) a physician;
- (2) a qualified technician;

(3) a registered professional nurse;

(4) a licensed vocational nurse; or

(5) a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic authorized to take a blood specimen under Subsection (c).

(b) A [The] blood specimen must be taken according to recognized medical procedures. A [in a sanitary place.

[(b) The] person or the employer of a person who takes a [the] blood specimen [under this chapter, or the hospital where the blood specimen is taken,] is not liable for damages arising from the taking of the blood specimen pursuant to a search warrant, or at the request or order of a [the] peace officer [to take the blood specimen] as provided by this chapter, if the blood specimen was taken according to recognized medical procedures. This subsection does not relieve a person from liability for negligence in the taking of a blood specimen.

(c) A licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic may take a blood specimen only if authorized by the medical director for the entity that employs the technician-intermediate or technician-paramedic. The specimen must be taken according to a protocol developed by the medical director that provides direction to the technician-intermediate or technician-paramedic for the taking of a blood specimen at the request of a peace officer. In this subsection, "medical director" means a licensed physician who supervises the provision of emergency medical services by a public or private entity that:

(1) provides those services; and

(2) employs one or more licensed or certified emergency medical technician-intermediates or emergency medical technician-paramedics [section, "qualified technician" does not include emergency medical services personnel].

(d) A protocol developed under Subsection (c) may address whether an emergency medical technician-intermediate or emergency medical technician-paramedic engaged in the performance of official duties may refuse to:

(1) go to the location of a person from whom a peace officer requests or orders the taking of a blood specimen solely for the purpose of taking that blood specimen;

(2) take a blood specimen if the technician-intermediate or technician-paramedic reasonably believes that complying with the peace officer's request or order to take the specimen would impair or interfere with the performance of patient care or other official duties; or

(3) provide the equipment or supplies necessary to take a blood specimen.

(e) If a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic takes a blood specimen at the request or order of a peace officer, a peace officer must observe the taking of the specimen and must immediately take possession of the specimen for purposes of establishing a chain of custody.

Floor Amendment No. 2 on Third Reading

Amend **SB 328** on third reading by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 601.072, Transportation Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) A person convicted of an offense relating to the operating of a motor vehicle while intoxicated must maintain, in addition to the minimum coverage required by this section, additional liability insurance coverage to establish financial responsibility under this chapter. A person convicted one time of an offense to which this subsection applies is required to maintain additional financial responsibility in an amount that is twice the amount required by Subsection (a)(1) or (a-1)(1), as applicable. For each subsequent conviction of an offense to which this subsection applies, the person is required to maintain additional financial responsibility in an amount that is twice the amount the person was required to maintain immediately before the date the subsequent conviction became final. In this subsection, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09, Penal Code.

(b) Section 2151.102(a), Insurance Code, is amended to read as follows:

(a) The association shall provide for the assignment of insurance to an authorized insurer for a person required by Chapter 601, Transportation Code, including Section 601.072, Transportation Code, to show proof of financial responsibility for the future.

(c) The change in law made by this section to Section 601.072, Transportation Code, applies only to a conviction for an offense relating to the operating of a motor vehicle while intoxicated that becomes final on or after the effective date of this Act. A conviction for an offense relating to the operating of a motor vehicle while intoxicated that became final before the effective date of this Act is governed by the law in effect on the date the conviction became final, and the former law is continued in effect for that purpose.

(d) The change in law made by this section to Section 2151.102(a), Insurance Code, applies only to an automobile insurance policy that is delivered, issued for delivery, or renewed by the Texas Automobile Insurance Plan Association on or after the effective date of this Act. An automobile insurance policy that is delivered, issued for delivery, or renewed by the Texas Automobile Insurance Plan Association before the effective date of this Act is covered by the law in effect at the time the automobile insurance policy was delivered, issued for delivery, or renewed by the Texas Automobile Insurance Plan Association, and the former law is continued in effect for that purpose.

The amendments were read.

Senator Carona moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 328** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Watson, Shapleigh, Nichols, and Zaffirini.

SENATE BILL 333 WITH HOUSE AMENDMENT

Senator Carona called **SB 333** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 333** (House committee printing) by adding the following SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0161 to read as follows:

Art. 102.0161. SUPPLEMENTAL COSTS FOR BREATH ALCOHOL TESTING PROGRAM. (a) The custodians of municipal and county treasuries may deposit funds collected under this article in interest-bearing accounts and retain for the municipality or county interest earned on the funds. The custodians shall keep records of funds received and disbursed under this article and shall provide a yearly report of all funds received and disbursed under this article to the comptroller, to the Department of Public Safety, and to each agency in the county served by the court that participates in or maintains a certified breath alcohol testing program. The comptroller shall approve the form of the report.

(b) On conviction of an offense under Section 49.04, 49.045, 49.046, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code, the court shall require the defendant to pay a \$50 breath alcohol testing program fee as a cost of court. The custodian of a municipal or county treasury may retain \$5 of each court cost collected under this article for administrative costs. The custodian of a municipal or county treasury in a county in which one or more certified breath alcohol testing programs are maintained by the county or a municipality that do not use the services of a certified technical supervisor employed by the department may, to defray the costs of hiring or contracting with a certified technical supervisor for the program or programs or the costs of maintaining and supporting the program or programs, retain the remaining \$45 of each court cost collected under this article, in addition to any other court cost relating to a breath alcohol testing program to which the county is entitled under Article 102.016 of this code or Section 133.102, Local Government Code.

(c) A county that maintains one or more certified breath alcohol testing programs that do not use the services of a certified technical supervisor employed by the department shall provide to a municipality in the county, on request, the services of a certified technical supervisor if the municipality:

(1) has a population of more than 10,000; and

(2) does not use the services of a certified technical supervisor employed by the department.

(d) The custodian of a municipal or county treasury in a county in which two or more certified breath alcohol testing programs are maintained by the county or a municipality that do not use the services of a certified technical supervisor employed by the department shall divide the court costs collected under this article, other than

the portion collected for administrative costs, according to the percentage of breath alcohol tests performed on persons who are suspected of committing an offense under Section 49.04, 49.045, 49.046, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code, by each of the testing programs in the county that employs or contracts with a certified technical supervisor.

(e) In this article, a person is considered convicted if:

- (1) a sentence is imposed on the person;
- (2) the person receives community supervision or deferred adjudication; or
- (3) the court defers final disposition of the person's case.

(f) The custodian of a municipal or county treasury shall keep records of the amount of funds on deposit collected under this article and send to each certified breath alcohol testing program in the county that employs or contracts with a certified technical supervisor, before the last day of the first month following each calendar quarter, the appropriate portion of the court costs collected under Subsection (d) for the preceding quarter.

(g) Not later than the last day of the first month following each calendar quarter, the custodian of a municipal or county treasury shall remit to the comptroller the funds collected under this article during the preceding quarter, other than the amount the municipality or county is authorized to retain for that period, in a manner directed by the comptroller. The comptroller shall deposit funds received under this subsection to the credit of the breath alcohol testing account in the general revenue fund. The legislature may appropriate money deposited to the credit of the breath alcohol testing account in the general revenue fund under this subsection to the Department of Public Safety for use by the department in the implementation, administration, and maintenance of the statewide certified breath alcohol testing program.

(h) Notwithstanding any other provision of this article, a county that, before January 1, 2009, charged fees to a municipality in the county to support the county's breath alcohol testing program may continue to charge a fee to a municipality in the county only to cover the portion of the costs of the breath alcohol testing program not covered by other funds allocated to or retained by the county for that purpose.

SECTION _____. Subchapter C, Chapter 102, Government Code, is amended by adding Section 102.0412 to read as follows:

Sec. 102.0412. SUPPLEMENTAL BREATH ALCOHOL TESTING PROGRAM FEE ON CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a district court shall collect from a defendant the fee imposed under Article 102.0161(b), Code of Criminal Procedure, on conviction.

SECTION _____. Subchapter D, Chapter 102, Government Code, is amended by adding Section 102.0612 to read as follows:

Sec. 102.0612. SUPPLEMENTAL BREATH ALCOHOL TESTING PROGRAM FEE ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect from a defendant the fee imposed under Article 102.0161(b), Code of Criminal Procedure, on conviction.

SECTION _____. Subchapter E, Chapter 102, Government Code, is amended by adding Section 102.0812 to read as follows:

Sec. 102.0812. SUPPLEMENTAL BREATH ALCOHOL TESTING PROGRAM FEE ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect from a defendant the fee imposed under Article 102.0161(b), Code of Criminal Procedure, on conviction.

The amendment was read.

Senator Carona moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 333** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Watson, Shapleigh, Nichols, and Zaffirini.

SENATE BILL 408 WITH HOUSE AMENDMENTS

Senator Carona called **SB 408** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 408** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 82.003, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) If after service on a nonresident manufacturer through the secretary of state in the manner prescribed by Subchapter C, Chapter 17, the manufacturer fails to answer or otherwise make an appearance in the time required by law, it is conclusively presumed for the purposes of Subsection (a)(7)(B) that the manufacturer is not subject to the jurisdiction of the court unless the seller is able to secure personal jurisdiction over the manufacturer in the action.

(b) Notwithstanding any other provision of this Act, the change in law made by this section applies to an action filed on or after the effective date of this Act or pending on the effective date of this Act.

Floor Amendment No. 2

Amend **SB 408** (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) Sections 531.019(a) and (e), Government Code, as added by Chapter 1161 (H.B. 75), Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(a) In this section, "public assistance benefits" means benefits provided under a public assistance program under Chapter 31, 32, or 33, Human Resources Code.

(e) For purposes of Section 2001.171, an applicant for or recipient of public assistance benefits has exhausted all available administrative remedies and a decision, including a decision under Section 31.034 or 32.035, Human Resources Code, is final and appealable on the date that, after a hearing:

(1) the hearing officer for the commission or a health and human services agency reaches a final decision related to the benefits; and

(2) the appropriate attorney completes an administrative review of the decision and notifies the applicant or recipient in writing of the results of that review.

(b) The changes in law made by this section apply only to an appeal of a final decision by the Health and Human Services Commission related to financial assistance benefits under Chapter 31, Human Resources Code, that is rendered on or after the effective date of this Act. A final decision rendered by the commission before the effective date of this Act is governed by the law in effect on the date the decision was rendered, and the former law is continued in effect for that purpose.

(2) In SECTION 7 of the bill (page 2, line 21), strike "The changes" and substitute "Except as otherwise provided by this Act, the changes".

Floor Amendment No. 1 on Third Reading

Amend **SB 408** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 821.025(a), Health and Safety Code, is amended to read as follows:

(a) An owner divested of ownership of an animal under Section 821.023 [~~ordered sold at public auction as provided in this subchapter~~] may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. As a condition of perfecting an appeal, the owner must file an appeal bond in an amount determined by the [~~justice or municipal~~] court from which the appeal is taken to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. [~~The decision of the county court or county court at law may not be further appealed. An owner may not appeal an order:~~

~~[(1) to give the animal to a nonprofit animal shelter, pound, or society for the protection of animals; or~~

~~[(2) to humanely destroy the animal.]~~

(b) Section 821.025(a), Health and Safety Code, as amended by this section, applies only to an appeal of a court order made on or after the effective date of this Act. An appeal of a court order made before the effective date of this Act is covered by the law in effect when the appeal was made, and the former law is continued in effect for that purpose.

Floor Amendment No. 2 on Third Reading

On third reading, amend **SB 408** on page 2, between lines 20 and 21, by inserting the following appropriately numbered new SECTIONS and renumber the following sections appropriately:

SECTION _____. Subchapter A, Chapter 25, Government Code, is amended by adding Section 25.0020 to read as follows:

Sec. 25.0020. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS. (a)

On a written application of any party to an eviction suit, the county court or county court at law in which an appeal of the suit is filed may appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who:

(1) was in possession of the residence at the time the eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) The appointed counsel shall represent the individual in the proceedings of the suit in the county court or county court at law. At the conclusion of those proceedings, the appointment terminates.

(c) The court may terminate representation appointed under this section for cause.

(d) Appointed counsel may not receive attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. The county is not responsible for payment of attorney's fees to appointed counsel.

(e) The court shall provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

SECTION . Subchapter A, Chapter 26, Government Code, is amended by adding Section 26.010 to read as follows:

Sec. 26.010. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS. (a)

On a written application of any party to an eviction suit, the county court or county court at law in which an appeal of the suit is filed may appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who:

(1) was in possession of the residence at the time the eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) The appointed counsel shall represent the individual in the proceedings of the suit in the county court or county court at law. At the conclusion of those proceedings, the appointment terminates.

(c) The court may terminate representation appointed under this section for cause.

(d) Appointed counsel may not receive attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. The county is not responsible for payment of attorney's fees to appointed counsel.

(e) The court shall provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

The amendments were read.

Senator Carona moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 408** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Watson, Wentworth, Hinojosa, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 2925

Senator Whitmire called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2925** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2925** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Gallegos, Hegar, Eltife, and Averitt.

SENATE RESOLUTION 1060

Senator Ogden offered the following resolution:

SR 1060, Suspending limitations on conference committee jurisdiction, **SB 1**.

SR 1060 was read and was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1 ADOPTED

Senator Ogden called from the President's table the Conference Committee Report on **SB 1**. The Conference Committee Report was filed with the Senate on Tuesday, May 26, 2009.

On motion of Senator Ogden, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Gallegos, Shapleigh.

NOMINATIONS RETURNED

On motion of Senator Jackson and by unanimous consent, the Senate agreed to grant the request of the Governor to return the following nominations:

Member, Board, Office of Rural Community Affairs: Joaquin L. Rodriguez, Maverick County.

Member, Parks and Wildlife Commission: Rick L. Campbell, Shelby County.

Member, Board of Regents, Texas Woman's University: Patty Hayes Huffines, Travis County.

Independent Ombudsman, Office of Independent Ombudsman, Texas Youth Commission: Will Harrell, Travis County.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

May 28, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 250, Recognizing the heroism of U.S. Marine Corporal Roy Cisneros of San Antonio.

HCR 251, In memory of Lisa Hood Urban of Baytown.

HCR 253, In memory of former first lady, Lady Bird Johnson.

HCR 254, Honoring the 2009 and 2010 State Artist appointees.

HCR 257, In memory of James Michael Grant of Gatesville.

HCR 259, Congratulating James Alford Davis of Menard on the occasion of his 80th birthday.

HCR 260, In memory of Odessa City Council member Michael Sanchez.

HCR 261, In memory of Marguerite Stone Butler of Paris, Texas.

HCR 262, In memory of Martha Sue Brunson of Paris, Texas.

SB 44, Relating to the participation of students in funding awarded under the advanced research program.
(Committee Substitute)

SB 52, Relating to the penalties for the illegal use of a parking space or area designated specifically for persons with disabilities.
(Committee Substitute/Amended)

SB 129, Relating to the maximum speed limit for a neighborhood electric vehicle being operated on a street or highway.

(Committee Substitute)

SB 174, Relating to accountability of institutions of higher education, including educator preparation programs, and online institution resumes for public institutions of higher education.

(Committee Substitute)

SB 184, Relating to "no regrets" greenhouse gas emissions reduction strategies.

SB 194, Relating to a prohibition against certain activities by a person employed in the financial aid office of a public institution of higher education or of a career school or college.

(Committee Substitute)

SB 203, Relating to the reporting of health care-associated infections in certain health care facilities.

(Amended)

SB 271, Relating to the appointment of a successor guardian for certain wards adjudicated as totally incapacitated.

(Amended)

SB 292, Relating to the requirement that licensed physicians provide emergency contact information to the Texas Medical Board.

(Amended)

SB 300, Relating to eliminating or modifying certain mandates on school districts.

(Committee Substitute)

SB 343, Relating to the creation of an advisory committee to study the retail availability of healthy foods in certain underserved areas of this state.

SB 390, Relating to confidentiality of certain information under the public information law and in local tax appraisal records regarding federal law enforcement officers.

SB 397, Relating to methods of payment for reimbursement of jury service expenses.

SB 418, Relating to the compilation, maintenance, and release of information in a criminal street gang intelligence database by law enforcement agencies and criminal justice agencies.

SB 420, Relating to the performance evaluation criteria for judges employed by a municipality.

SB 448, Relating to the authority of the Texas Department of Transportation to mitigate adverse environmental impacts resulting from the construction, improvement, or maintenance of state highways or state highway facilities.

SB 449, Relating to the penalty group classification of certain controlled substances.

SB 480, Relating to the authority of the Texas Transportation Commission to enter into a covenant for environmental remediation of real property owned by the Texas Department of Transportation.

SB 497, Relating to compensation paid to certain judges and justices.
(Committee Substitute/Amended)

SB 521, Relating to the Texas Department of Transportation's memorial sign program.

SB 531, Relating to the billing coordination system for claims submitted for payment from the Medicaid program.
(Amended)

SB 537, Relating to the emergency installation and use of a device to intercept wire, oral, or electronic communications.
(Amended)

SB 571, Relating to a crematory establishment's authority to accept for cremation unidentified human remains.

SB 581, Relating to intermunicipal commuter rail districts.

SB 589, Relating to certain requirements for suncreening devices that are placed on or attached to a motor vehicle; providing a penalty.
(Committee Substitute)

SB 646, Relating to a study regarding the confidentiality of prescription information; providing a civil penalty.

SB 652, Relating to the maintenance of emergency contact and medical information databases by the Department of Public Safety of the State of Texas.

SB 666, Relating to the administration of charitable trusts.
(Committee Substitute)

SB 671, Relating to information requested by a member, committee, or agency of the legislature under the public information law.

SB 683, Relating to the recusal or disqualification of a statutory probate court judge and subsequent assignment of another judge.
(Committee Substitute/Amended)

SB 689, Relating to restrictions on the use of the Internet by sex offenders and to the reporting, collection, and exchange of information regarding those offenders; providing a civil penalty.

SB 705, Relating to long-term care consumer information and Medicaid waiver programs.
(Committee Substitute)

SB 726, Relating to the creation of the Harrison County Groundwater Conservation District; providing authority to impose a tax and issue bonds.
(Amended)

- SB 742**, Relating to the qualifications to serve as an associate judge or visiting associate judge in certain family law proceedings.
- SB 876**, Relating to the performance of annual soil tests for certain concentrated animal feeding operations by the Texas Commission on Environmental Quality.
- SB 883**, Relating to the use of the state highway fund to participate in the costs associated with a toll facility of a public or private entity.
- SB 887**, Relating to the licensing and regulation of dentists, dental hygienists, dental assistants, and dental laboratories; providing penalties.
- SB 970**, Relating to the qualifications required of the executive director of the Texas Department of Transportation.
- SB 1024**, Relating to authority of a school district to mail a tax bill with an adopted rate that is higher than the district's rollback tax rate before the date of a rollback election.
- SB 1050**, Relating to the release of certain information relating to child fatalities resulting from abuse or neglect.
- SB 1112**, Relating to the provision of money from a county's general fund to disaster victims.
- SB 1127**, Relating to the confidentiality of test results of samples of compounded products.
- SB 1153**, Relating to the liability of a landowner for an act or omission of a firefighter or peace officer on the property of the landowner.
- SB 1166**, Relating to the duties and salary of the county attorney of Swisher County and the election and duties of the district attorney for the 64th Judicial District.
- SB 1171**, Relating to certain health-related reports, records, and information.
- SB 1204**, Relating to the powers and duties of the Bastrop County Water Control and Improvement District No. 2.
- SB 1211**, Relating to the liability of a volunteer audiologist, assistant in audiology, speech-language pathologist, or assistant in speech-language pathology.
- SB 1326**, Relating to the functions of the statewide health coordinating council; providing civil penalties.
- SB 1382**, Relating to the coordination of the planning, construction, operation, and maintenance of a statewide passenger rail system by the Texas Department of Transportation.
- SB 1409**, Relating to the definition of first responder for purposes of the immunization registry.
- SB 1436**, Relating to the appeal of a censure issued by the State Commission on Judicial Conduct.
- SB 1437**, Relating to the powers of an associate judge in a Title IV-D case.

- SB 1439**, Relating to the travel, board, and lodging expenses of a person appointed to assist the State Commission on Judicial Conduct.
- SB 1441**, Relating to the terms of the members of the Court Reporters Certification Board.
- SB 1472**, Relating to public meetings for permit applications under the Texas Clean Air Act.
- SB 1571**, Relating to the issuance of certain permits for overweight vehicles.
- SB 1598**, Relating to an agreement authorizing a nonparent relative of a child to make certain decisions regarding the child; providing a penalty.
- SB 1599**, Relating to the disclosure of criminal history record information to the Court Reporters Certification Board.
- SB 1609**, Relating to the control of access to state highways by the Texas Department of Transportation.
- SB 1650**, Relating to appeals in cases arising under the Federal Arbitration Act.
- SB 1685**, Relating to the creation of a district court records technology fund.
- SB 1705**, Relating to the authority and policies and procedures of the Dallas County Hospital District with regard to appointing, contracting for, or employing physicians, dentists, and other health care providers.
- SB 1723**, Relating to an informational manual for voluntary caregivers who provide temporary care for children who are the subject of an investigation by the Department of Family and Protective Services.
- SB 1728**, Relating to the administration of and eligibility for the Joint Admissions Medical Program.
- SB 1729**, Relating to the terms of student members of certain Texas Higher Education Coordinating Board advisory committees.
- SB 1732**, Relating to safety requirements for public swimming pools and other artificial bodies of water.
- SB 1798**, Relating to certifying the eligibility of certain educational aides to receive an exemption from tuition and fees charged by public institutions of higher education.
- SB 1803**, Relating to the Glenda Dawson Donate Life-Texas Registry.
- SB 1820**, Relating to the calculation of a person's net resources for purposes of determining child support liability.
- SB 1824**, Relating to the Interagency Task Force for Children with Special Needs.
- SB 1853**, Relating to disciplinary actions regarding a pharmacy technician or pharmacy technician trainee.
- SB 1932**, Relating to the licensing requirements of hospitals temporarily providing outpatient dialysis services to a person because of a disaster.
- SB 1970**, Relating to certain election practices and procedures; providing penalties. (Committee Substitute/Amended)

SB 1984, Relating to certification of a person in certain counties as eligible for disabled parking privileges.

SB 2085, Relating to the offense of unlawful use of public funds for political advertising by a political subdivision.

SB 2135, Relating to a monument dedicated to members of the armed forces from this state who died in combat.

SB 2141, Relating to the statute of repose for engineers and architects.

SB 2148, Relating to information and assistance provided by the chief appraiser to emergency management authorities.

SB 2153, Relating to the booting of vehicles by private entities in parking facilities; providing penalties.

SB 2228, Relating to the transfer of certain state property from the Texas Department of Criminal Justice to Coryell County.

SB 2230, Relating to the jurisdiction and operation of the district courts in McLennan County.

SB 2240, Relating to the financing of educational and related facilities by higher education facility authorities or nonprofit corporations performing the functions of those authorities and to the governance of certain higher education facility authorities.

SB 2248, Relating to public school students placed in substitute care.

SB 2258, Relating to intensive summer programs for public school students and to college readiness programs at public institutions of higher education.

SB 2262, Relating to the administration of mathematics, science, and technology teacher preparation academies at institutions of higher education.

SB 2325, Relating to the confidentiality of certain information pertaining to the State Commission on Judicial Conduct.

SB 2340, Relating to electronic monitoring and other alternative means for certain defendants to discharge a fine or costs or satisfy a term of confinement in county jail.

SB 2381, Relating to the fee charged for registration on the master bidders list.

SB 2385, Relating to information regarding the relative or designated caregivers for a child in the managing conservatorship of the state.

SB 2420, Relating to the location at which a certification examination for interpreters for the deaf or hard of hearing may be conducted.

SB 2424, Relating to the authorization of certain nonemergency ambulance services under the Medicaid program.

SB 2435, Relating to medical assistance program reimbursement for guardianship expenses of certain recipients.

SB 2469, Relating to the creation of two additional county courts at law in Hidalgo County.

SB 2512, Relating to the creation of the Chambers County Improvement District No. 3; granting road powers; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

SB 2517, Relating to the dissolution of the Ballinger Memorial Hospital District and the North Runnels County Hospital District and the creation of the Runnels County Hospital District; granting the authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 2524, Relating to the creation of the Liberty County Municipal Utility District No. 6; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

SB 2550, Relating to the creation of the Padre Island Gateway Municipal Management District; providing authority to impose a tax and issue bonds.

SB 2553, Relating to the regulatory authority of counties, including granting certain counties authority to regulate the cutting of certain trees; providing a penalty.

SB 2554, Relating to a bailiff for the 130th District Court.

SB 2565, Relating to adjustments of rates of certain telecommunications utilities for changes in certain tax liabilities.

SB 2577, Relating to bariatric surgery coverage for state employees.

SCR 42, Renaming Building G at the Department of State Health Services Central Complex as the Dr. Robert Bernstein Building.

SCR 78, In memory of James Michael Grant of Gatesville.

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

HB 3613 (146 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 2030 (142 Yeas, 0 Nays, 1 Present, not voting)

HB 2626 (142 Yeas, 0 Nays, 2 Present, not voting)

SB 2298 (141 Yeas, 0 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Jackson.

Senator Jackson moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

Senator Van de Putte requested the following nominee be severed:

Chair, State Board of Education: Don McLeroy, Brazos County.

The request was granted.

NOMINEES CONFIRMED

The following nominees, not severed and reported yesterday by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Member, Board of Directors, Angelina and Neches River Authority: Patricia E. Dickey, Houston County.

Member, Board of Directors, Brazos River Authority: Trent McKnight, Throckmorton County.

Presiding Officer, Board of Directors, Central Texas Regional Mobility Authority: Ray Allen Wilkerson, Travis County.

Members, Commission on Human Rights: Thomas M. Anderson, Fort Bend County; Michelle H. Diggs, Travis County; Travis A. Morris, Travis County; Danny L. Osterhout, Andrews County; Veronica Vargas Stidvent, Travis County.

Justice, Court of Appeals, Fifth Court of Appeals District: Robert M. Fillmore, Collin County.

Members, Governing Board, Department of Information Resources: Ramon F. Baez, Tarrant County; Robert E. Pickering, Jr., Harris County.

Members, Governing Board, Texas School for the Deaf: Beatrice Maestas Burke, Bell County; Walter Camenisch III, Travis County; Nancy Mumme Carrizales, Harris County; Eric Hogue, Collin County; Susan K. Ridley, Fort Bend County; Angie Wolf, Travis County.

Members, Health and Human Services Council: Sharon J. Barnes, Calhoun County; Manson B. Johnson, Harris County; Jerry Kane, Nueces County; Leon J. Leach, Colorado County; Ronald Thomas Luke, Travis County; Teresa "Terry" Wilkinson, Midland County.

Members, Board of Directors, Lavaca-Navidad River Authority: John Alcus Cotten, Jr., Jackson County; Ronald Edwin Kubecka, Jackson County; Nils P. Mauritz, Jackson County.

Members, State Board for Educator Certification: Bradley Wayne Allard, Johnson County; Bonny L. Cain, Brazoria County; Benny W. Morris, Johnson County; Judy Robison, El Paso County.

Members, State Pension Review Board: Paul A. Braden, Dallas County; Andrew Winston Cable, Hays County; Jerry Robert Massengale, Lubbock County; Richard Earl McElreath, Randall County; Norman W. Parrish, Montgomery County; Wayne R. Roberts, Travis County; Scott D. Smith, Williamson County.

Member, Board of Directors, Sulphur River Basin Authority: Kirby Hollingsworth, Franklin County.

Members, Texas Board of Licensure for Professional Medical Physicists: Philip D. Bourland, Ph.D., Bell County; Shannon D. Cox, M.D., Travis County; Valerie Foreman, Denton County; Kumar Krishen, Harris County; John Raymond Leahy, M.D., Travis County; Rebecca C. Middleton, Dallas County; Pamela M. Otto, M.D., Bexar County; Richard E. Wendt III, Harris County.

Members, Texas Board of Nursing: Kristin K. Benton, Travis County; Patricia "Patti" Clapp, Dallas County; Tamara Jean Parrish Cowen, Cameron County; Sheri Denise Crosby, Dallas County; Marilyn J. Davis, Fort Bend County; Richard Robert Gibbs, Dallas County; Kathy Lynette Leader-Horn, Hood County; Josefina Lujan, El Paso County; Mary Jane Salgado, Maverick County.

Members, Texas Board of Occupational Therapy Examiners: Catherine Benavidez, Denton County; Judith Ann "Judy" Chambers, Hays County; Kathleen Hill, Williamson County; Stephanie Johnston, Harris County; Pamela D. Nelon, Tarrant County; Todd Matthew Novosad, Travis County; Angela Sieffert, Dallas County; Bobby James Vasquez, Collin County.

Members, Texas Board of Orthotics and Prosthetics: Leah F. Esparza, Travis County; Roy D. McCoy, Williamson County; Miguel N. Mojica, Dallas County.

Members, Texas Board of Professional Land Surveying: James Allen Childress, San Saba County; Nedra J. Foster, Hardin County; Robert H. Price, P.E., Tarrant County.

Members, Texas Emancipation Juneteenth Cultural and Historical Commission: Vicki D. Blanton, Dallas County; Willie Belle Boone, Harris County; Carmen Francis, Williamson County, Clarence E. Glover, Jr., Dallas County; William H. Watson, Lubbock County.

Member, Texas Industrialized Building Code Council: Jesse Rider, Smith County.

Members, Texas Military Preparedness Commission: Dora G. Alcala, Val Verde County; Ralph C. Gauer, Sr., Bell County; Alvin W. "Al" Jones, Brazos County; Paul F. Paine, Parker County; Thomas A. Whaylen, Wichita County.

Members, Texas Physician Assistant Board: Ronald W. Bryce, Ellis County; Teralea Davis Jones, Bee County; Felix Koo, Hidalgo County; M. A. Mitchell, D.O., Clay County; Abelino Reyna, McLennan County; Edward W. Zwanziger, Henderson County.

Members, Texas Real Estate Commission: Adrian A. Arriaga, Hidalgo County; Robert Christopher "Chris" Day, Cherokee County; Jaime Blevins Hensley, Angelina County; Joanne Justice, Tarrant County; Dona Scurry, El Paso County; Avis Geer Wukasch, Williamson County.

Members, Texas Residential Construction Commission: Ross A. Benline, Guadalupe County; Gerardo M. Garcia, Nueces County; Don Illingworth, Tarrant County; Steven R. Leipsner, Travis County; Glenda Mariott, Brazos County; Mickey Randall Redwine, Van Zandt County.

Members, Texas State Board of Acupuncture Examiners: Suehing Woo Yee Chiang, Fort Bend County; Allen D. Cline, Travis County; Linda Wynn Drain, Collin County; Terry Glenn Rascoe, M.D., Bell County; Karen Siegel, Harris County; Rachelle L. Webb, Travis County; Rey Ximenes, M.D., Travis County.

Members, Texas State Board of Examiners of Professional Counselors: Brenda "Brandi" Buckner, Parker County; Karen R. Burke, Travis County; Steven Douglas Christopherson, Harris County; Brenda S. Compagnone, Dimmit County; Glynda Beth Corley, Williamson County; Michelle Alcon Eggleston; Potter County; Leslie Fischer Pohl, Travis County; Jaa Akili St. Julien, Harris County; Maria Francisca Teran, El Paso County.

Members, Texas State Board of Public Accountancy: A. Carlos Barrera, Cameron County; Everett Ray Ferguson, Taylor County; James Calvin Flagg, Brazos County; Jon Reed Keeney, Harris County; David Lambert King, Bexar County; Maribess Lehmann Miller, Dallas County; Steve D. Pena, Williamson County; Thomas Green Prothro, Smith County; Catherine J. Rodewald, Dallas County; John W. Steinberg, Guadalupe County.

Members, Texas Transportation Commission: Deirdre Delisi, Travis County; Edward C. Houghton IV, El Paso County; William W. Meadows, Tarrant County; Fred A. Underwood, Lubbock County.

MOTION TO CONFIRM NOMINEE

Senator Jackson moved to confirm the following severed nominee:

Chair, State Board of Education: Don McLeroy, Brazos County.

The motion was lost by the following vote: Yeas 19, Nays 11, Present-not voting 1. (Not receiving two-thirds vote of Members present)

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Present-not voting: Lucio.

HOUSE CONCURRENT RESOLUTION 184

The President laid before the Senate the following resolution:

BE IT RESOLVED by the 81st Texas Legislature, That the Senate and House of Representatives of the State of Texas meet in a joint memorial session in the Hall of the House of Representatives on Saturday, May 30, 2009, at 10 a.m., to honor all Texans killed while serving in the Global War on Terrorism; and, be it further

RESOLVED, That the Honorable Rick Perry, Governor of Texas, all Texas state officials, and the family members of those killed in the Global War on Terrorism be, and hereby are, invited to attend the joint memorial session.

VAN DE PUTTE

HCR 184 was read.

On motion of Senator Van de Putte, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 835, SB 873, SB 892, SB 909, SB 926, SB 1033, SB 1053, SB 1057, SB 1058, SB 1080, SB 1081, SB 1082, SB 1207, SB 1208, SB 1218, SB 1223, SB 1325, SB 1328, SB 1332, SB 1344, SB 1359, SB 1403, SB 1474, SB 1485, SB 1514, SB 1522, SB 1574, SB 1575, SB 1617, SB 1652, SB 1670, SB 1676, SB 1699, SB 252, SB 281, SB 291, SB 413, SB 414, SB 576, SB 798, SB 801, SB 927, SB 940, SB 1055, SB 1107, SB 1134, SB 1142, SB 1354, SB 1367, SB 1377, SB 1701, SB 1712, SB 1771, SB 1795, SB 1807, SB 1826, SB 1876, SB 1930, SB 1941, SB 1992, SB 1997, SB 2048, SB 2058, SB 2072, SB 2093, SB 2182, SB 2217, SB 2312, SB 2412, SB 2438, SB 2445, SB 2462, SB 2465, SB 2519, SB 2534, SB 504, SB 1209, SB 1299, SB 1478, SB 1633, SB 1777, SB 1782, SB 1813, SB 1903, SB 1982, SB 2028, SB 2041, SB 2067, SB 2073, SB 2178, SB 2244, SB 2344, SB 2454, SB 2467, SB 2485, SB 2495, SB 2501, SB 2510, SB 2511, SB 2518, SB 2522, SB 2552, SB 2558, SB 2580, HB 101, HB 108, HB 389, HB 453, HB 527, HB 533, HB 583, HB 586, HB 598, HB 978, HB 1055, HB 1326, HB 1596, HB 1597, HB 1598, HB 1599, HB 1601, HB 1664, HB 2128, HB 2142, HB 2181, HB 2208, HB 2547, HB 2585, HB 2664, HB 2690, HB 2692, HB 2728, HB 2748, HB 2799, HB 2804, HB 2806, HB 2813, HB 2814, HB 2820, HB 2906, HB 2994, HB 3005, HB 3385, HB 3611, HB 3625, HB 3922, HB 4007, HB 4064, HB 4068, HB 4103, HB 4464, HB 4465, HB 4492, HB 4493, HB 4519, HB 4560, HB 4594, HB 4607, HB 4611, HB 4700, HB 4723, HB 4737, HB 4741, HB 4748, HB 4750, HB 4752, HB 4754, HB 4771, HB 4772, HB 4777, HB 4803, HB 4811, HB 4815, HCR 5, HCR 16, HCR 53, HCR 71, HCR 79, HCR 81, HCR 119, HCR 120, HCR 182.

AT EASE

The President at 4:22 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 7:00 p.m. called the Senate to order as In Legislative Session.

SENATE BILL 28 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 28** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 28** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the use of a computer for an unauthorized purpose.

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

SECTION 1. Section 324.002, Business & Commerce Code, as effective April 1, 2009, is amended by adding Subdivisions (1-a) and (9) to read as follows:

(1-a) "Botnet" means a collection of two or more zombies.

(9) "Zombie" means a computer that, without the knowledge and consent of the computer's owner or operator, has been compromised to give access or control to a program or person other than the computer's owner or operator.

SECTION 2. Section 324.003(a), Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

(a) Section 324.052, other than Subdivision (1) of that section, and Sections 324.053(4), ~~and~~ 324.054, and 324.055 do not apply to a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service that monitors or has interaction with a subscriber's Internet or other network connection or service or a protected computer for:

- (1) a network or computer security purpose;
- (2) diagnostics, technical support, or a repair purpose;
- (3) an authorized update of computer software or system firmware;
- (4) authorized remote system management; or
- (5) detection or prevention of unauthorized use of or fraudulent or other

illegal activity in connection with a network, service, or computer software, including scanning for and removing software proscribed under this chapter.

SECTION 3. Section 324.005, Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

Sec. 324.005. KNOWING VIOLATION. A person knowingly violates Section 324.051, 324.052, ~~or~~ 324.053, or 324.055 if the person:

- (1) acts with actual knowledge of the facts that constitute the violation; or
- (2) consciously avoids information that would establish actual knowledge of

those facts.

SECTION 4. Subchapter B, Chapter 324, Business & Commerce Code, as effective April 1, 2009, is amended by adding Section 324.055 to read as follows:

Sec. 324.055. UNAUTHORIZED CREATION OF, ACCESS TO, OR USE OF ZOMBIES OR BOTNETS; PRIVATE ACTION. (a) In this section:

(1) "Internet service provider" means a person providing connectivity to the Internet or another wide area network.

(2) "Person" has the meaning assigned by Section 311.005, Government Code.

(b) A person who is not the owner or operator of the computer may not knowingly cause or offer to cause a computer to become a zombie or part of a botnet.

(c) A person may not knowingly create, have created, use, or offer to use a zombie or botnet to:

(1) send an unsolicited commercial electronic mail message, as defined by Section 321.001;

(2) send a signal to a computer system or network that causes a loss of service to users;

(3) send data from a computer without authorization by the owner or operator of the computer;

(4) forward computer software designed to damage or disrupt another computer or system;

(5) collect personally identifiable information; or

(6) perform an act for another purpose not authorized by the owner or operator of the computer.

(d) A person may not:

(1) purchase, rent, or otherwise gain control of a zombie or botnet created by another person; or

(2) sell, lease, offer for sale or lease, or otherwise provide to another person access to or use of a zombie or botnet.

(e) The following persons may bring a civil action against a person who violates this section:

(1) a person who is acting as an Internet service provider and whose network is used to commit a violation under this section;

(2) a person who has incurred a loss or disruption of the conduct of the person's business, including for-profit or not-for-profit activities, as a result of the violation; or

(3) the attorney general, subject to Subsection (g).

(f) A person bringing an action under this section may, for each violation:

(1) seek injunctive relief to restrain a violator from continuing the violation;

(2) subject to Subsection (h), recover damages in an amount equal to the greater of:

(A) actual damages arising from the violation; or

(B) \$100,000 for each zombie used to commit the violation; or

(3) obtain both injunctive relief and damages.

(g) The attorney general may seek only injunctive relief and actual damages under Subsection (f), except in those instances in which the attorney general represents a governmental entity.

(h) The court may increase an award of damages, statutory or otherwise, in an action brought under this section to an amount not to exceed three times the applicable damages if the court finds that the violations have occurred with such a frequency as to constitute a pattern or practice.

(i) A plaintiff who prevails in an action brought under this section is entitled to recover court costs and reasonable attorney's fees, reasonable fees of experts, and other reasonable costs of litigation.

(j) A remedy authorized by this section is not exclusive but is in addition to any other procedure or remedy provided for by other statutory or common law.

(k) Nothing in this section may be construed to impose liability on the following persons with respect to a violation of this section committed by another person:

(1) an Internet service provider;

(2) a provider of interactive computer service, as defined by Section 230, Communications Act of 1934 (47 U.S.C. Section 230);

(3) a telecommunications provider, as defined by Section 51.002, Utilities Code; or

(4) a video service provider or cable service provider, as defined by Section 66.002, Utilities Code.

SECTION 5. Section 324.101(a), Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

(a) Any of the following persons, if adversely affected by the violation, may bring a civil action against a person who violates Section 324.051, 324.052, 324.053, or 324.054 [this chapter]:

- (1) a provider of computer software;
- (2) an owner of a web page or trademark;
- (3) a telecommunications carrier;
- (4) a cable operator; or
- (5) an Internet service provider.

SECTION 6. The changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2009.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 28**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 4067

Pursuant to Rule 13, Section 5A of the Rules of the Texas House, 81st Legislature, the house hereby returns house bill 4067 to the senate for further consideration due to non germane amendments.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE BILL 904 WITH HOUSE AMENDMENT

Senator Williams called **SB 904** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 904** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 5. Subchapter B, Chapter 481, Health and Safety Code, is amended by adding Section 481.037 to read as follows:

Sec. 481.037. CARISOPRODOL. Schedule IV includes carisoprodol.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 904**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 395 WITH HOUSE AMENDMENT

Senator Lucio called **SB 395** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 on Third Reading

Amend **SB 395** on third reading in SECTION 1 of the bill as follows:

(1) In proposed Section 115.003(a), Health and Safety Code, strike "seven members" and substitute "eight members".

(2) At the end of proposed Section 115.003(a)(6), Health and Safety Code, strike "and".

(3) At the end of proposed Section 115.003(a)(7), strike "Services." and substitute "Services; and".

(4) Immediately following proposed Section 115.003(a)(7), Health and Safety Code, insert the following:

(8) a representative of the Texas AgriLife Extension Service, appointed by the director of the Texas AgriLife Extension Service.

The amendment was read.

Senator Lucio moved to concur in the House amendment to **SB 395**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1515 WITH HOUSE AMENDMENT

Senator Watson called **SB 1515** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1515** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to a major events trust fund, a motor sports racing trust fund, and an events trust fund for sporting and non-sporting events.

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

SECTION 1. Section 1, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (1), (1-a), (2), (5), (6), (7), and (8) and adding Subdivision (2-a) to read as follows:

(1) "Department" means the ~~[Texas Department of]~~ Economic Development and Tourism Division, Office of the Governor ~~[or its successor]~~.

(1-a) "Endorsing county" means an endorsing county for purposes of Section 5, ~~[or]~~ 5A, 5B, or 5C of this Act.

(2) "Endorsing municipality" means an endorsing municipality for purposes of Section 4, 5, 5A, ~~[or]~~ 5B, or 5C of this Act.

(2-a) "Event" means a game or event as defined by Section 5A, 5B, or 5C of this Act.

(5) "Joinder agreement" means an agreement entered into by:

(A) the department on behalf of this state and a site selection organization setting out representations and assurances by the state in connection with the selection of a site in this state for the location of a game or event ~~[any of the games]~~; or

(B) a local organizing committee, an endorsing municipality, an endorsing county, or more than one local organizing committee, endorsing municipality, or endorsing county acting collectively, and a site selection organization setting out representations and assurances by each local organizing committee, endorsing municipality, or endorsing county in connection with the selection of a site in this state for the location of a game or event ~~[any of the games]~~.

(6) "Joinder undertaking" means an agreement entered into by:

(A) the department on behalf of this state and a site selection organization that the state will execute a joinder agreement if ~~[in the event that]~~ the site selection organization selects a site in this state for a game or event ~~[any of the games]~~; or

(B) a local organizing committee, an endorsing municipality, an endorsing county, or more than one local organizing committee, endorsing municipality, or endorsing county acting collectively, and a site selection organization that each local organizing committee, endorsing municipality, or endorsing county will execute a joinder agreement if ~~[in the event that]~~ the site selection organization selects a site in this state for a game or event ~~[any of the games]~~.

(7) "Local organizing committee" means a nonprofit corporation or its successor in interest that:

(A) has been authorized by an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively to pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site of a game or event ~~[one or more games]~~; or

(B) with the authorization of an endorsing municipality, endorsing county, or more than ~~that~~ one endorsing municipality or county acting collectively, has executed an agreement with a site selection organization regarding a bid to host a game or event ~~[one or more games]~~.

(8) "Site selection organization" means a site selection organization as defined by Sections 5, 5A, and 5C of this Act ~~[the United States Olympic Committee, the International Olympic Committee, the Pan American Sports Organization, the National Football League, the National Collegiate Athletic Association, the National Basketball Association, the National Hockey League, Major League Baseball, Federation Internationale de Football Association (FIFA), the International World Games Association, the Automobile Competition Committee for the United States (ACCUS) affiliated with the Federation Internationale de l'Automobile, the Champ Car organization, or the American Le Mans Series organization]~~.

SECTION 2. Sections 2 and 3, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2. PURPOSE. The purpose of this Act is to provide assurances required by a site selection organization sponsoring a [one or more major] sporting or non-sporting game or event [athletic events] and to provide financing for the costs of:

(1) applying or bidding for selection as the site of a game ~~[major sporting]~~ or event [athletic events] in this state;

(2) making the preparations necessary and desirable for the conduct of a game ~~[major sporting]~~ or event [athletic events] in this state, including the construction or renovation of facilities to the extent authorized by this Act; and

(3) conducting a game ~~[major sporting]~~ or event [athletic events] in this state.

Sec. 3. LEGISLATIVE FINDINGS. The conduct in this state of one or more games ~~[major sporting]~~ or [athletic] events will:

(1) provide invaluable public visibility throughout the nation or world for this state and the communities where the games ~~[major sporting]~~ or [athletic] events are held;

(2) encourage and provide major economic benefits to the communities where the games ~~[major sporting]~~ or [athletic] events are held and to the entire state; and

(3) provide opportunities for the creation of jobs by local and Texas businesses that pay a living wage.

SECTION 3. The heading to Section 5A, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5A. PAYMENT OF STATE AND MUNICIPAL OR COUNTY OBLIGATIONS; MAJOR ~~[OTHER]~~ EVENTS TRUST FUND.

SECTION 4. Section 5A, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), is amended by amending Subsections (a) through (m), (o), and (p) and adding Subsections (a-1), (b-1), (d-1), (r), (s), (t), (u), and (v) to read as follows:

(a) In this section:

- (1) "Endorsing county" means:
- (A) a county that contains a site selected by a site selection organization for one or more events; or
 - (B) a county that:
 - (i) does not contain a site selected by a site selection organization for an event;
 - (ii) is included in the market area for the event as designated by the comptroller; and
 - (iii) is a party to an event support contract [games].
- (2) "Endorsing municipality" means:
- (A) a municipality that contains a site selected by a site selection organization for one or more events; or
 - (B) a municipality that:
 - (i) does not contain a site selected by a site selection organization for an event;
 - (ii) is included in the market area for the event as designated by the comptroller; and
 - (iii) is a party to an event support contract [games].
- (3) "Event support contract" means a joinder undertaking, joinder agreement, or a similar contract executed by a local organizing committee, an endorsing municipality, or an endorsing county and a site selection organization.
- (4) "Event" [~~"Game"~~] means a Super Bowl, a National Collegiate Athletic Association Final Four tournament game, the National Basketball Association All-Star Game, the National Hockey League All-Star Game, the Major League Baseball All-Star Game, a National Collegiate Athletic Association Bowl Championship Series game, a World Cup Soccer game, the World Games, a national collegiate championship of an amateur sport sanctioned by the national governing body of the sport that is recognized by the United States Olympic Committee, ~~or~~ an Olympic activity, including a Junior or Senior activity, training program, or feeder program sanctioned by the United States Olympic Committee's Community Olympic Development Program, the Breeders' Cup World Championships, or a Formula One automobile race. The term includes any ~~[events and]~~ activities related to or associated with an event ~~[the games].~~
- (5) "Site selection organization" means the National Football League, the National Collegiate Athletic Association, the National Basketball Association, the National Hockey League, Major League Baseball, the Federation Internationale de Football Association (FIFA), the International World Games Association, the United States Olympic Committee[-] or the national governing body of a sport that is recognized ~~[as such]~~ by the United States Olympic Committee, the National Thoroughbred Racing Association, Formula One Management Limited, or the Federation Internationale de l'Automobile.
- (a-1) An event included in Subsection (a)(4) of this section is eligible for funding under this section only if:
- (1) a site selection organization selects a site located in this state for the event after considering, through a highly competitive selection process, one or more sites that are not located in this state;

(2) a site selection organization selects a site in this state as the sole site for the event; and

(3) the event is held not more than one time in any year.

(b) If a site selection organization selects a site for an event [a game] in this state pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county, ~~[not later than three months before the date of the game or six months before the date of the game]~~ upon request of a local organizing committee, endorsing municipality, or endorsing county, the comptroller shall determine for a one-year [the two week] period that begins two months before [ends at the end of the day after] the date on which the event [game] will begin [be held], in accordance with procedures developed by the comptroller:

(1) the incremental increase in the receipts to the state from taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event [game] and related activities [events];

(2) the incremental increase in the receipts collected by the state on behalf of each endorsing municipality in the market area from the sales and use tax imposed by each endorsing municipality under Section 321.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing municipality under Section 183.051(b), Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event [game] and related activities [events];

(3) the incremental increase in the receipts collected by the state on behalf of each endorsing county in the market area from the sales and use tax imposed by each endorsing county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing county under Section 183.051(b), Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event [game] and related activities [events];

(4) the incremental increase in the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event [game] and related activities [events]; and

(5) the incremental increase in the receipts collected by each endorsing county in the market area from the hotel occupancy tax imposed under Chapter 352, Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event [game] and related activities [events].

(b-1) A request for a determination of the amount of incremental increase in tax receipts specified by Subsection (b) of this section must be submitted to the comptroller not earlier than one year and not later than three months before the date the event begins. The comptroller shall base the determination specified by Subsection (b) of this section on information submitted by the local organizing committee, endorsing municipality, or endorsing county, and must make the determination not later than the 30th day after the date the comptroller receives the request and related information.

(c) For the purposes of Subsection (b)(1) of this section, the comptroller shall designate as a market area for the event [game] each area in which the comptroller determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the event [game] and related activities [events], including areas likely to provide venues, accommodations, and services in connection with the event [game] based on the proposal provided by the local organizing committee to the comptroller. The comptroller shall determine the geographic boundaries of each market area. An endorsing municipality or endorsing county that has been selected as the site for the event [game] must be included in a market area for the event [game].

(d) Each endorsing municipality or endorsing county shall remit to the comptroller and the comptroller shall deposit into a trust fund created by the comptroller and designated as the Major [Other] Events trust fund the amount of the municipality's or county's hotel occupancy tax revenue determined under Subsection (b)(4) or (b)(5) of this section, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller shall retain the amount of sales and use tax revenue and mixed beverage tax revenue determined under Subsection (b)(2) or (b)(3) of this section from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, and deposit into the trust fund the tax revenues, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller shall begin retaining and depositing the local tax revenues with the first distribution of that tax revenue that occurs after the first day of the one-year [two-week] period described by Subsection (b) of this section or at a time otherwise determined to be practicable by the comptroller and shall discontinue retaining the local tax revenues under this subsection when the amount of the applicable tax revenue determined under Subsection (b)(2) or (b)(3) of this section has been retained. The Major [Other] Events trust fund is established outside the state treasury and is held in trust by the comptroller for administration of this Act. Money in the trust fund may be disbursed by the comptroller without appropriation only as provided by this section.

(d-1) Not later than the 90th day after the last day of an event and in lieu of the local tax revenues remitted to or retained by the comptroller under Subsection (d) of this section, a municipality or county may remit to the comptroller for deposit in the Major Events trust fund other local funds in an amount equal to the total amount of local tax revenue determined under Subsections (b)(2) through (5) of this section. The amount deposited by the comptroller into the Major Events trust fund under this subsection is subject to Subsection (f) of this section.

(e) In addition to the tax revenue deposited in the Major [Other] Events trust fund under Subsection (d) of this section, an endorsing municipality or endorsing county may guarantee its obligations under an event [a game] support contract and this section by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the event [game]. An endorsing municipality or endorsing county may collect and remit to the comptroller surcharges and user fees attributable to the event for deposit into the Major Events trust fund.

(f) The comptroller shall deposit into the Major Events trust fund a portion of the state tax revenue not to exceed the amount determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of the local revenue retained or remitted under this section, including:

- (1) local sales and use tax revenue;
- (2) ~~and~~ mixed beverage tax revenue;
- (3) ~~retained and the~~ hotel occupancy tax revenue; and
- (4) surcharge and user fee revenue ~~remitted by an endorsing municipality or endorsing county under Subsection (d) of this section~~.

(g) To meet its obligations under a game support contract or event support contract to improve, construct, renovate, or acquire facilities or to acquire equipment, an endorsing municipality by ordinance or an endorsing county by order may authorize the issuance of notes. An endorsing municipality or endorsing county may provide that the notes be paid from and secured by amounts on deposit or amounts to be deposited into the Major ~~Other~~ Events trust fund or surcharges from user fees, including parking or ticket fees, charged in connection with the event ~~[game]~~. Any note issued must mature not later than seven years from its date of issuance.

(h) The funds in the Major ~~Other~~ Events trust fund may be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) of this section and to fulfill obligations of the state or an endorsing municipality or endorsing county to a site selection organization under a game support contract or event support contract, which obligations may include the payment of costs relating to the preparations necessary or desirable for the conduct of the event ~~[game]~~ and the payment of costs of conducting the event ~~[game]~~, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

(i) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the comptroller to enable the comptroller to fulfill the comptroller's duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the event ~~[game]~~ and to the economic impact of the event ~~[game]~~. A local organizing committee, endorsing municipality, or endorsing county must provide an annual audited financial statement required by the comptroller, if any, not later than the end of the fourth month after the date the period covered by the financial statement ends. After the conclusion of an event and on the comptroller's request, a local organizing committee, endorsing municipality, or endorsing county must provide information relating to the event, such as attendance figures, financial information, or other public information held by the local organizing committee, endorsing municipality, or endorsing county that the comptroller considers necessary.

(j) Not ~~[The comptroller shall provide an estimate not]~~ later than the 30th day after the date a ~~[three months before the date of a game or six months before the date of the game upon]~~ request of a local organizing committee, endorsing municipality, or endorsing county is submitted to the comptroller under Subsection (b-1) of this section, the comptroller shall provide an estimate of the total amount of tax revenue that would be deposited in the Major ~~Other~~ Events trust fund under this section in

connection with that event [game], if the event [game] were to be held in this state at a site selected pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county. ~~[The comptroller shall provide the estimate on request to a local organizing committee, endorsing municipality, or endorsing county.]~~ A local organizing committee, endorsing municipality, or endorsing county may submit the comptroller's estimate to a site selection organization.

(k) The comptroller may make a disbursement from the Major [Other] Events trust fund on the prior approval of each contributing endorsing municipality or endorsing county for a purpose for which a local organizing committee, an endorsing municipality, or an endorsing county or the state is obligated under a game support contract or event support contract. A disbursement may not be made from the trust fund that the comptroller determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

(l) If a disbursement is made from the Major [Other] Events trust fund under Subsection (k), the obligation shall be satisfied proportionately from the state and local revenue in the trust fund.

(m) On payment of all state, municipal, or county obligations under a game support contract or event support contract related to the location of any particular event [game] in the state, the comptroller shall remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the trust fund.

(o) This section may not be construed as creating or requiring a state guarantee of obligations imposed on the state or an endorsing municipality or endorsing county under an event [a game] support contract or other agreement relating to hosting one or more events [games] in this state.

(p) The comptroller may not undertake any of the responsibilities or duties set forth in this section unless a request is submitted by the municipality or ~~[and]~~ the county in which the event [game] will be located. The request must be accompanied by documentation from a site selection organization selecting the site for the event [game].

(r) This subsection applies only to an event that the comptroller determines under Subsection (b) of this section will generate at least \$15 million in state and local tax revenue. The comptroller and one or more endorsing municipalities or endorsing counties may enter into an agreement to provide that an amount equal to the amount of local tax revenue determined by the comptroller under Subsections (b)(2) through (5) of this section shall be remitted to the comptroller by one or more endorsing municipalities or endorsing counties and shall be deposited by the comptroller into the Major Events trust fund before the event. In the 12 months immediately preceding the event, the comptroller may deposit into the trust fund an amount equal to the amount the state is required to deposit under Subsection (f) of this section from any amounts appropriated by the legislature for the purposes of this subsection. The comptroller may make disbursements from the trust fund in amounts that do not exceed the amounts deposited under this subsection in accordance with the agreement to pay costs relating to attracting and securing the event. An agreement under this subsection

may provide that, following the last day of an event, the funds eligible for disbursement under Subsection (k) of this section be held in the trust fund and made available to pay the cost of securing the event in future years.

(s) The term of an agreement entered into under Subsection (r) of this section may not exceed 10 years and must terminate:

(1) on the final termination date provided in the agreement; or

(2) if the event covered by the agreement is not held during any 18-month period covered by the agreement.

(t) On termination of an agreement entered into under Subsection (r) of this section, the total amount of the state's initial contribution under the agreement must be repaid to the state from funds disbursed under Subsection (k) of this section or from any other source specified in the agreement. An agreement entered into under Subsection (r) of this section must include terms that the comptroller determines are necessary to protect the state's interest, including a provision for a performance bond or other guarantee of repayment if the event is not held in the state after a disbursement has been made.

(u) The comptroller shall deposit any amount appropriated by the legislature for the purposes of Subsection (r) of this section into the Major Event trust fund for the limited purpose of paying the costs of attracting and securing an event eligible under that subsection.

(v) The comptroller may adopt rules necessary to implement this section.

SECTION 5. Sections 5B(a)(1) and (2), Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) "Endorsing county" means a county [~~with a population of one million or more~~] that contains a site selected by a site selection organization for one or more motor sports racing events.

(2) "Endorsing municipality" means a municipality [~~with a population of one million or more~~] that contains a site selected by a site selection organization for one or more motor sports racing events.

SECTION 6. The heading to Section 5C, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5C. EVENTS [~~SPORTING EVENT~~] TRUST FUND FOR CERTAIN MUNICIPALITIES AND COUNTIES.

SECTION 7. Section 5C, Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (b), and (d) through (m), and by adding Subsections (a-1), (c-1), (d-1), (p), and (q) to read as follows:

(a) In this section:

(1) "Endorsing county" means a county [~~with a population of 800,000 or more~~] that contains a site selected by a site selection organization for one or more events.

(2) "Endorsing municipality" means a municipality [~~with a population of 500,000 or more~~] that contains a site selected by a site selection organization for one or more events.

(3) "Event" means an [a National Collegiate Athletic Association regional tournament or playoff game, a Senior Olympic activity, including a training program or feeder program sanctioned by the National Senior Games Association, or a major sporting or athletic] event or a related series of events held in this state for which a local organizing committee, endorsing county, or endorsing municipality seeks approval from [sanctioned by] a site selection organization to hold the event at a site in this state. The term includes any activities related to or associated with the event.

(4) "Event support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by a local organizing committee, an endorsing municipality, or an endorsing county and a site selection organization.

(5) "Site selection organization" means an entity that conducts or considers conducting an eligible event in this state [the United States Olympic Committee (USOC), United States Youth Soccer Association (USYSA), United States Bowling Congress (USBC), Amateur Softball Association of America (ASA), National Senior Games Association (NSGA), American Youth Football and Cheer (AYF), United States Lacrosse (USL), National Collegiate Athletic Association (NCAA), United States Tennis Association (USTA), Special Olympics, National Association for Stock Car Auto Racing (NASCAR), Breeders' Cup, or another major nationally or internationally recognized sports organization].

(a-1) An event is eligible for funding under this section only if:

(1) a site selection organization selects a site for the event located in this state after considering, through a highly competitive selection process, one or more sites that are not located in this state;

(2) a site selection organization selects a site in this state as:

(A) the sole site for the event; or

(B) the sole site for the event in a region composed of this state and one or more adjoining states; and

(3) the event is held not more than one time in this state or an adjoining state in any year.

(b) If a site selection organization [~~after considering through a highly competitive process one or more sites that are not located in this state,~~] selects a site for an event in this state pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county, not later than three months before the date of the event, the comptroller shall determine for the 30-day period that ends at the end of the day after the date on which the event will be held or, if the event occurs on more than one day, after the last date on which the event will be held, in accordance with procedures developed by the comptroller:

(1) the incremental increase in the receipts to this state from taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event and related activities;

(2) the incremental increase in the receipts collected by this state on behalf of each endorsing municipality in the market area from the sales and use tax imposed by each endorsing municipality under Section 321.101(a), Tax Code, and the mixed

beverage tax revenue to be received by each endorsing municipality under Section 183.051(b), Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event and related activities;

(3) the incremental increase in the receipts collected by this state on behalf of each endorsing county in the market area from the sales and use tax imposed by each endorsing county under Section 323.101(a), Tax Code, and the mixed beverage tax revenue to be received by each endorsing county under Section 183.051(b), Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event and related activities;

(4) the incremental increase in the receipts collected by each endorsing municipality in the market area from the hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event and related activities; and

(5) the incremental increase in the receipts collected by each endorsing county in the market area from the hotel occupancy tax imposed under Chapter 352, Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the event and related activities.

(c-1) The comptroller shall base the determination specified by Subsection (b) of this section on information submitted by the local organizing committee, endorsing municipality, or endorsing county, and must make the determination not later than the 30th day after the date the comptroller receives the information.

(d) Each endorsing municipality or endorsing county shall remit to the comptroller and the comptroller shall deposit into a trust fund created by the comptroller and designated as the Events [~~sporting events~~] trust fund the amount of the municipality's or county's hotel occupancy tax revenue determined under Subsection (b)(4) or (5) of this section, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller shall retain the amount of sales and use tax revenue and mixed beverage tax revenue determined under Subsection (b)(2) or (3) of this section from the amounts otherwise required to be sent to the municipality under Sections 321.502 and 183.051(b), Tax Code, or to the county under Sections 323.502 and 183.051(b), Tax Code, and deposit into the trust fund the tax revenues, less any amount of the revenue that the municipality or county determines is necessary to meet the obligations of the municipality or county. The comptroller shall begin retaining and depositing the local tax revenues with the first distribution of that tax revenue that occurs after the first day of the period described by Subsection (b) of this section or at a time otherwise determined to be practicable by the comptroller and shall discontinue retaining the local tax revenues under this subsection when the amount of the applicable tax revenue determined under Subsection (b)(2) or (3) of this section has been retained. The Events [~~sporting events~~] trust fund is established outside the state treasury and is held in trust by the comptroller for administration of this section. Money in the trust fund may be disbursed by the comptroller without appropriation only as provided by this section.

(d-1) Not later than the 90th day after the last day of an event and in lieu of the local tax revenues remitted to or retained by the comptroller under Subsection (d) of this section, a municipality or county may remit to the comptroller for deposit in the

Events trust fund other local funds in an amount equal to the total amount of local tax revenue determined under Subsections (b)(2) through (5) of this section. The amount deposited by the comptroller into the Events trust fund under this subsection is subject to Subsection (f) of this section.

(e) In addition to the tax revenue deposited in the Events [~~sporting events~~] trust fund under Subsection (d) of this section, an endorsing municipality or endorsing county may guarantee its obligations under an event support contract and this section by pledging surcharges from user fees, including parking or ticket fees, charged in connection with the event. An endorsing municipality or endorsing county may collect and remit to the comptroller surcharges and user fees attributable to the event for deposit into the Events trust fund.

(f) The comptroller shall deposit into the Events [~~sporting events~~] trust fund a portion of the state tax revenue not to exceed the amount determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of the local tax revenue retained or remitted under this section, including:

- (1) local sales and use tax revenue;
- (2) [~~and~~] mixed beverage tax revenue;
- (3) [~~retained and the~~] hotel occupancy tax revenue; and
- (4) surcharge and user fee revenue [~~remitted by an endorsing municipality or endorsing county under Subsection (d) of this section~~].

(g) To meet its obligations under an event support contract to improve, construct, renovate, or acquire facilities or to acquire equipment, an endorsing municipality by ordinance or an endorsing county by order may authorize the issuance of notes. An endorsing municipality or endorsing county may provide that the notes be paid from and secured by amounts on deposit or amounts to be deposited into the Events [~~sporting events~~] trust fund or surcharges from user fees, including parking or ticket fees, charged in connection with the event. Any note issued must mature not later than seven years from its date of issuance.

(h) The money in the Events [~~sporting events~~] trust fund may be used to pay the principal of and interest on notes issued by an endorsing municipality or endorsing county under Subsection (g) of this section and to fulfill obligations of this state or an endorsing municipality or endorsing county to a site selection organization under an event support contract, which obligations may include the payment of costs relating to the preparations necessary or desirable for the conduct of the event and the payment of costs of conducting the event, including improvements or renovations to existing facilities or other facilities and costs of acquisition or construction of new facilities or other facilities.

(i) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the comptroller to enable the comptroller to fulfill the comptroller's duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, an endorsing municipality, or an endorsing county relating to attendance at the event and to the economic impact of the event. A local organizing committee, endorsing municipality, or endorsing county must provide an annual audited financial statement required by the comptroller, if any, not later than the end of the fourth month after the date the period covered by the financial statement

ends. After the conclusion of an event and on the comptroller's request, a local organizing committee, endorsing municipality, or endorsing county must provide information relating to the event, such as attendance figures, financial information, or other public information held by the local organizing committee, endorsing municipality, or endorsing county that the comptroller considers necessary.

(j) The comptroller shall provide an estimate not later than three months before the date of an event of the total amount of tax revenue that would be deposited in the Events [~~sporting events~~] trust fund under this section in connection with that event, if the event were to be held in this state at a site selected pursuant to an application by a local organizing committee, endorsing municipality, or endorsing county. The comptroller shall provide the estimate on request to a local organizing committee, endorsing municipality, or endorsing county. A local organizing committee, endorsing municipality, or endorsing county may submit the comptroller's estimate to a site selection organization.

(k) The comptroller may make a disbursement from the Events [~~sporting events~~] trust fund on the prior approval of each contributing endorsing municipality or endorsing county for a purpose for which a local organizing committee, an endorsing municipality, or an endorsing county or this state is obligated under an event support contract. A disbursement may not be made from the trust fund that the comptroller determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

(l) If a disbursement is made from the Events [~~sporting events~~] trust fund under Subsection (k) of this section, the obligation shall be satisfied proportionately from the state and local revenue in the trust fund.

(m) On payment of all state, municipal, or county obligations under an event support contract related to the location of any particular event in this state, the comptroller shall remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the Events [~~sporting events~~] trust fund.

(p) The comptroller may adopt rules necessary to implement this section.

(q) In determining the amount of state revenue available under Subsection (b)(1) of this section, the comptroller may consider whether:

(1) the event has been held in this state on previous occasions; and
(2) changes to the character of the event could affect the incremental increase in receipts collected and remitted to the state by an endorsing county or endorsing municipality under that subsection.

SECTION 8. Section 5A(n), Chapter 1507 (S.B. 456), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), is repealed.

SECTION 9. The changes in law made by this Act apply only to applications for participation in the Major Events trust fund or the Events trust fund that are received by the comptroller on or after September 1, 2009. An application for participation in the Other Events trust fund or the sporting events trust fund received

before September 1, 2009, is governed by the law as it existed immediately before the effective date of this Act, and that law and the respective funds are continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2009.

The amendment was read.

Senator Watson moved to concur in the House amendment to **SB 1515**.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Nichols, Patrick.

SENATE BILL 359 WITH HOUSE AMENDMENT

Senator Patrick called **SB 359** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 359** (House committee printing) in SECTION 1 of the bill as follows:

(1) In proposed Section 12.50(a), Penal Code (page 1, line 12), strike "is" and substitute "was, at the time of the offense".

(2) In proposed Section 12.50(a)(1), Penal Code (page 1, line 13), strike "considered to be a disaster area by" and substitute "subject to a declaration of a state of disaster made by".

(3) In proposed Section 12.50(a)(1)(B), Penal Code (page 1, line 18), immediately following the underlined semicolon, insert "or".

(4) Strike proposed Section 12.50(a)(1)(D), Penal Code (page 1, lines 22-23).

The amendment was read.

Senator Patrick moved to concur in the House amendment to **SB 359**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 743 WITH HOUSE AMENDMENT

Senator Wentworth called **SB 743** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **SB 743** (engrossed version) in SECTION 1 of the bill, in amended Article 18.07(a)(1), Code of Criminal Procedure (page 1, line 11), by striking "20" and substituting "15".

The amendment was read.

Senator Wentworth moved to concur in the House amendment to **SB 743**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 865 WITH HOUSE AMENDMENTS

Senator Harris called **SB 865** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 865** (House committee printing) by adding the following appropriately numbered SECTION and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Subsection (a-1), Section 154.125, Family Code, is amended to read as follows:

(a-1) The dollar amount prescribed by Subsection (a) is adjusted every six 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 in the consumer price index during the 72-month ~~[preceding six year]~~ period preceding March 1 of the year of the adjustment ~~[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.

Floor Amendment No. 3

Amend **SB 865** as follows:

(1) In SECTION 4 of the bill, strike the introductory language (page 3, lines 12 and 13) and substitute the following:

Section 154.130, Family Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(2) In SECTION 4 of the bill, between amended Sections 154.130(a) and (b), Family Code (page 3, between lines 23 and 24), insert the following:

(a-1) If findings under this section are required as a result of the request by a party under Subsection (a)(1) or (2), the court shall make and enter the findings not later than the 15th day after the date of the party's request.

Floor Amendment No. 4

Amend **SB 865** (House committee report) as follows:

(1) Strike SECTION 12 of the bill, amending Section 157.162(d), Family Code (page 10, lines 18-27).

(2) Strike SECTION 35 of the bill (page 18, lines 10-16).

(3) Renumber the SECTIONS of the bill accordingly.

Floor Amendment No. 6

Amend **SB 865** (House committee printing) as follows:

(1) In Section 23 of the bill, in amended Section 231.202, Family Code, strike Subdivision (4) of that section (page 15, lines 7-12) and substitute the following:

(4) the fee for services provided by ~~[that]~~ sheriffs and constables, including:

(A) a fee ~~[are]~~ authorized ~~[to charge for serving process]~~ under Section 118.131, Local Government Code, for servicing each item of process to each individual on whom service is required, including service by certified or registered mail, ~~to be paid to a sheriff, constable, or clerk whenever service of process is required]; and~~

(B) a fee authorized under Section 157.103(b) for serving a capias;

(2) In Section 23 of the bill, in Section 231.202(5), Family Code (page 15, line 14), strike "and" and substitute "[~~and~~]".

(3) In Section 23 of the bill, in Section 231.202(6), Family Code (page 15, line 16), strike the period and substitute "; and".

(4) In Section 23 of the bill, immediately following Section 231.202(6), Family Code (page 15, between lines 16 and 17), insert the following:

(7) a fee authorized under a local rule for the electronic filing of documents with a clerk.

(5) In Section 40 of the bill, strike Subsection (b) of that section (page 19, lines 17 and 18) and substitute the following:

(b) The changes in law made by this Act to Sections 158.203 and 231.202, Family Code, take effect September 1, 2009.

(6) Insert the following appropriately numbered section in the bill and renumber the sections of the bill accordingly:

SECTION _____. The changes in law made by this Act to Section 231.202, Family Code, by the amendment of Subdivision (4) and the enactment of Subdivision (7) of that section apply to a suit affecting the parent-child relationship pending in a trial court on or filed on or after September 1, 2009.

Floor Amendment No. 7

Amend **SB 865** (House committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 110.006, Family Code, is amended to read as follows:

Sec. 110.006. DOMESTIC RELATIONS OFFICE OPERATIONS FEES AND CHILD SUPPORT SERVICE FEES. (a) If an administering entity of a domestic relations office adopts an initial operations fee under Section 203.005(a)(1) ~~[or an initial child support service fee under Section 203.005(a)(2)]~~, the clerk of the court shall:

(1) collect the operations fee at the time the original suit, motion for modification, or motion for enforcement, as applicable, is filed; and

(2) send the fee to the domestic relations office.

(b) If an administering entity of a domestic relations office adopts an initial child support service fee under Section 203.005(a)(2), the clerk of the court shall:

(1) collect the child support service fee at the time the original suit is filed; and

(2) send the fee to the domestic relations office.

(c) The fees described by Subsections (a) and (b) are not filing fees for purposes of Section 110.002 or 110.003.

SECTION _____. Section 203.005(a), Family Code, is amended to read as follows:

(a) The administering entity may authorize a domestic relations office to assess and collect:

(1) an initial operations fee not to exceed \$15 to be paid to the domestic relations office on each [the] filing of an original [a] suit, motion for modification, or motion for enforcement;

(2) in a county that has a child support enforcement cooperative agreement with the Title IV-D agency, an initial child support service fee not to exceed \$36 to be paid to the domestic relations office on the filing of an original [a] suit;

(3) a reasonable application fee to be paid by an applicant requesting services from the office;

(4) a reasonable attorney's fee and court costs incurred or ordered by the court;

(5) a monthly service fee not to exceed \$3 to be paid annually in advance by a managing conservator and possessory conservator for whom the domestic relations office provides child support services;

(6) community supervision fees as provided by Chapter 157 if community supervision officers are employed by the domestic relations office;

(7) a reasonable fee for preparation of a court-ordered social study;

(8) in a county that provides visitation services under Sections 153.014 and 203.004 a reasonable fee to be paid to the domestic relations office at the time the visitation services are provided;

(9) a fee to reimburse the domestic relations office for a fee required to be paid under Section 158.503(d) for filing an administrative writ of withholding;

(10) a reasonable fee for parenting coordinator services; and

(11) a reasonable fee for alternative dispute resolution services.

Floor Amendment No. 8

Amend **SB 865** (House committee report) as follows:

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

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;

~~(4) [(5)]~~ the principal amount of child support that has been confirmed and reduced to money judgment;

(5) interest on the principal amounts specified in Subdivisions (3) and (4);

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 _____. Section 157.268, Family Code, as amended by this Act, applies only to child support collected on or after January 1, 2010.

(2) In SECTION 40(a) of the bill (page 19, line 10), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(3) In SECTION 40 of the bill (page 19, between lines 16 and 17), insert the following:

(b) The change in law made by this Act to Section 157.268, Family Code, takes effect January 1, 2010.

(4) In SECTION 40 of the bill (page 19, line 17), strike "(b)" and substitute "(c)".

Floor Amendment No. 9

Amend **SB 865** (House committee report) on second reading by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 154.182(b), Family Code, is amended to read as follows:

(b) In determining the manner in which health care coverage for the child is to be ordered, the court shall render its order in accordance with the following priorities, unless a party shows good cause why a particular order would not be in the best interest of the child:

(1) if health insurance is available for the child through a parent's employment or membership in a union, trade association, or other organization at reasonable cost ~~[to the parent]~~, the court shall order that parent to include the child in the parent's health insurance;

(2) if health insurance is not available for the child under Subdivision (1) but is available to a parent at reasonable cost from another source, including the program under Section 154.1826 to provide health insurance in Title IV-D cases ~~[and at a reasonable cost]~~, the court may order that parent to provide health insurance for the child; or

(3) if health insurance coverage is not available for the child under Subdivision (1) or (2), the court shall order the obligor to pay the obligee, in addition to any amount ordered under the guidelines for child support, an amount, not to exceed nine percent of the obligor's annual ~~[monthly]~~ resources, as described by Section 154.062(b), as cash medical support for the child.

SECTION _____. Subchapter D, Chapter 154, Family Code, is amended by adding Sections 154.1826 and 154.1827 to read as follows:

Sec. 154.1826. HEALTH CARE PROGRAM FOR CERTAIN CHILDREN IN TITLE IV-D CASES. (a) In this section:

(1) "Health benefit plan issuer" means an insurer, health maintenance organization, or other entity authorized to provide health benefits coverage under the laws of this state.

(2) "Health care provider" means a physician or other person who is licensed, certified, or otherwise authorized to provide a health care service in this state.

(3) "Program" means the child health care program developed under this section.

(4) "Reasonable cost" has the meaning assigned by Section 154.181(e).

(5) "Third-party administrator" means a person who is not a health benefit plan issuer or agent of a health benefit plan issuer and who provides administrative services for the program, including processing enrollment of eligible children in the program and processing premium payments on behalf of the program.

(b) In consultation with the Texas Department of Insurance, the Health and Human Services Commission, and representatives of the insurance industry in this state, the Title IV-D agency shall develop and implement a statewide program to address the health care needs of children in Title IV-D cases for whom health insurance is not available to either parent at reasonable cost under Section 154.182(b)(1) or under Section 154.182(b)(2) from a source other than the program.

(c) The director of the Title IV-D agency may establish an advisory committee to consult with the director regarding the implementation and operation of the program. If the director establishes an advisory committee, the director may appoint any of the following persons to the advisory committee:

(1) representatives of appropriate public and private entities, including state agencies concerned with health care management;

(2) members of the judiciary;

(3) members of the legislature; and

(4) representatives of the insurance industry.

(d) The principal objective of the program is to provide basic health care services, including office visits with health care providers, hospitalization, and diagnostic and emergency services, to eligible children in Title IV-D cases at reasonable cost to the parents obligated by court order to provide medical support for the children.

(e) The Title IV-D agency may use available private resources, including gifts and grants, in administering the program.

(f) The Title IV-D agency shall adopt rules as necessary to implement the program. The Title IV-D agency shall consult with the Texas Department of Insurance and the Health and Human Services Commission in establishing policies and procedures for the administration of the program and in determining appropriate benefits to be provided under the program.

(g) A health benefit plan issuer that participates in the program may not deny health care coverage under the program to eligible children because of preexisting conditions or chronic illnesses. A child who is determined to be eligible for coverage under the program continues to be eligible until the termination of the parent's duty to pay child support as specified by Section 154.006. Enrollment of a child in the program does not preclude the subsequent enrollment of the child in another health care plan that becomes available to the child's parent at reasonable cost, including a health care plan available through the parent's employment or the state child health plan under Chapter 62, Health and Safety Code.

(h) The Title IV-D agency shall contract with an independent third-party administrator to provide necessary administrative services for operation of the program.

(i) A person acting as a third-party administrator under Subsection (h) is not considered an administrator for purposes of Chapter 4151, Insurance Code.

(j) The Title IV-D agency shall solicit applications for participation in the program from health benefit plan issuers that meet requirements specified by the agency. Each health benefit plan issuer that participates in the program must hold a certificate of authority issued by the Texas Department of Insurance.

(k) The Title IV-D agency shall promptly notify the courts of this state when the program has been implemented and is available to provide for the health care needs of children described by Subsection (b). The notification must specify a date beginning on which children may be enrolled in the program.

(l) On or after the date specified in the notification required by Subsection (k), a court that orders health care coverage for a child in a Title IV-D case shall order that the child be enrolled in the program authorized by this section unless other health insurance is available for the child at reasonable cost, including the state child health plan under Chapter 62, Health and Safety Code.

(m) Payment of premium costs for the enrollment of a child in the program may be enforced by the Title IV-D agency against the obligor by any means available for the enforcement of a child support obligation, including income withholding under Chapter 158.

(n) The program is not subject to any provision of the Insurance Code or other law that requires coverage or the offer of coverage of a health care service or benefit.

(o) Any health information obtained by the program, or by a third-party administrator providing program services, that is subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) or Chapter 181, Health and Safety Code, is confidential and not open to public inspection. Any personally identifiable financial information or supporting documentation of a parent whose child is enrolled in the program that is obtained by the program, or by a third-party administrator providing program services, is confidential and not open to public inspection.

Sec. 154.1827. ADMINISTRATIVE ADJUSTMENT OF MEDICAL SUPPORT ORDER. (a) In each Title IV-D case in which a medical support order requires that a child be enrolled in a health care program under Section 154.1826, the Title IV-D agency may administratively adjust the order as necessary on an annual basis to reflect changes in the amount of premium costs associated with the child's enrollment.

(b) The Title IV-D agency shall provide notice of the administrative adjustment to the obligor and the clerk of the court that rendered the order.

SECTION _____. The change in law made by this Act to Section 154.182(b), Family Code, takes effect September 1, 2009.

Floor Amendment No. 10

Amend **SB 865** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 234.010, Family Code, is amended to read as follows:

Sec. 234.010. DIRECT DEPOSIT AND ELECTRONIC BENEFITS TRANSFER OF CHILD SUPPORT PAYMENTS. (a) The state disbursement unit authorized under this chapter may make a direct deposit of [transmit] a child support

payment to an obligee by electronic funds transfer into ~~[if the obligee maintains]~~ an account with a financial institution maintained by the obligee. It is the responsibility of the obligee to notify the state disbursement unit of:

- (1) the existence of an account;
- (2) the appropriate routing information for direct deposit by electronic funds transfer into an account; and
- (3) any modification to account information previously provided to the state disbursement unit, including information that an account has been closed.

(b) Except as provided by Subsection (d), the state disbursement unit shall deposit a child support payment by electronic funds transfer into a debit card account established for the obligee by the Title IV-D agency if the obligee:

- (1) does not maintain an account with a financial institution;
- (2) fails to notify the state disbursement unit of the existence of an account maintained with a financial institution; or
- (3) closes an account maintained with a financial institution previously used to accept direct deposit of a child support payment without establishing a new account and notifying the state disbursement unit of the new account in accordance with Subsection (a) ~~[The work group convened under this subchapter may develop a plan to assist an obligee who does not have an account with a financial institution to obtain an account].~~

(c) The Title IV-D agency shall:

- (1) issue a debit card to each obligee for whom a debit card account is established under Subsection (b); and
- (2) provide the obligee with instructions for activating and using the debit card ~~[work group may determine whether it is feasible and cost-effective for the state to administer an electronic benefits transfer system for child support obligees and may recommend implementation of such a system to the Title IV-D agency].~~

(c-1) Chapter 604, Business & Commerce Code, does not apply to a debit card issued under Subsection (c).

(d) An obligee may decline in writing to receive child support payments by electronic funds transfer into an account with a financial institution or a debit card account and request that payments be provided by paper warrants if the obligee alleges that receiving payments by electronic funds transfer would impose a substantial hardship ~~[After receiving any recommendations by the work group under Subsection (c), the Title IV D agency or the vendor selected by the Title IV D agency to operate the state disbursement unit may provide for electronic benefits transfer, if the request for proposals issued by the Title IV D agency and any contract resulting from the selection of a vendor to provide the services specified in the request for proposals provides for electronic benefits transfer].~~

(e) A child support payment disbursed by the state disbursement unit by electronic funds transfer into an account with a financial institution maintained by the obligee or into a debit card account established for the obligee under Subsection (b) is solely the property of the obligee ~~[The work group may recommend and the Title IV D agency may establish procedures to implement this section.~~

~~[(f) The Title IV-D agency, after receiving the recommendation of the work group, may require an obligee to receive payments by direct deposit to the obligee's bank account or by electronic benefits transfer to an account established by the Title IV-D agency or the state disbursement unit if the account is established at no cost to the obligee].~~

SECTION _____. Section 72.101, Property Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to money collected as child support that:

(1) is being held for disbursement by the state disbursement unit under Chapter 234, Family Code, or a local registry, as defined by Section 101.018, Family Code, pending identification and location of the person to whom the money is owed;
or

(2) has been disbursed by the state disbursement unit under Chapter 234, Family Code, by electronic funds transfer into a child support debit card account established for an individual under Section 234.010, Family Code, but not activated by the individual.

SECTION _____. Subdivision (1), Subsection (a), Section 73.001, Property Code, is amended to read as follows:

(1) "Account" means funds deposited with a depository in an interest-bearing account, a checking or savings account, or a child support debit card account established under Section 234.010, Family Code, or funds received by a depository in exchange for the purchase of a stored value card.

Floor Amendment No. 11

Amend **SB 865** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 501.014(e), Government Code, is amended to read as follows:

(e) On notification by a court, the department shall withdraw from an inmate's account any amount the inmate is ordered to pay by order of the court under this subsection. On receipt of a valid court order requiring an inmate to pay child support, the department shall withdraw the appropriate amount from the inmate's account under this subsection, regardless of whether the court order is provided by the court or another person. The department shall make a payment under this subsection as ordered by the court to either the court or the party specified in the court order. The department is not liable for withdrawing or failing to withdraw money or making payments or failing to make payments under this subsection. The department shall make withdrawals and payments from an inmate's account under this subsection according to the following schedule of priorities:

- (1) as payment in full for all orders for child support;
- (2) as payment in full for all orders for restitution;
- (3) as payment in full for all orders for reimbursement of the Health and [Texas Department of] Human Services Commission for financial assistance provided for the child's health needs under Chapter 31, Human Resources Code, to a child of the inmate;
- (4) as payment in full for all orders for court fees and costs;

- (5) as payment in full for all orders for fines; and
- (6) as payment in full for any other court order, judgment, or writ.

Floor Amendment No. 12

Amend **SB 865** as follows:

- (1) On page 10, line 18, strike "Subsection (d),"
- (2) On page 10, line 19, between "amended" and "to", insert "by amending Subsection (d) and adding Subsection (e)".
- (3) On page 10, following line 27, insert the following:
(e) Notwithstanding Subsection (d), the court may award the petitioner costs of court and reasonable attorney's fees in a proceeding described by that subsection if the court finds that:

(1) on the date the motion for enforcement was filed, the respondent was not current in the payment of child support as ordered by the court; and

(2) the respondent made the child support payments described by Subsection (d) after the date the respondent was served notice of the motion or otherwise discovered that the motion for enforcement had been filed.

- (4) On page 18, line 10, between the period and "Section" insert "(a)".
- (5) On page 18, line 10, strike "157.162" and substitute "157.162(d)".
- (6) On page 18, between line 16 and 17, insert the following:
(b) The change in law made by Section 157.162(e), Family Code, as added by this Act, applies only to a motion for enforcement that is filed on or after the effective date of this Act. A motion for enforcement filed before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

The amendments were read.

Senator Harris moved to concur in the House amendments to **SB 865**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 68 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 68** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend **SB 68** (Senate engrossment) as follows:

(1) In SECTION 4 of the bill, in the recital for that section (page 8, line 26), strike "Subsection (g-1)" and substitute "Subsections (g-1) and (g-2)".

(2) In SECTION 4 of the bill, in amended Section 42.042, Human Resources Code (page 9, between lines 18 and 19), insert the following:

(g-2) The executive commissioner shall adopt specific rules and minimum standards, including standards relating to background check information, for a child-care facility that is located in a temporary shelter, including a family violence shelter or homeless shelter, in which an adult, accompanied by a child related to the adult or a child for whom the adult is the managing conservator, may temporarily reside and that provides care for less than 24 hours a day for a child accompanying an

adult temporarily residing in the shelter while the adult is not present at the shelter. In adopting the rules and minimum standards under this section, the executive commissioner shall:

(1) consider the special circumstances and needs of families that seek temporary shelter;

(2) consider the role of the shelter in assisting and supporting families in crisis; and

(3) distinguish between a child-care facility that provides care only for children temporarily residing in the shelter and a child-care facility that also provides care for children who are not temporarily residing in the shelter.

(3) In SECTION 16 of the bill, immediately after Subsection (c) of that section (page 17, between lines 17 and 18), insert the following:

(d) The change in law made by this Act by which a child-care facility located in a temporary shelter that provides care only for children temporarily residing in the shelter is required to be licensed under Chapter 42, Human Resources Code, as amended by this Act, takes effect on the later of:

(1) the date on which the executive commissioner of the Health and Human Services Commission adopts minimum standards for those child-care facilities under Section 42.042(g-2), Human Resources Code, as added by this Act; or

(2) September 1, 2010.

(e) The change in law made by this Act by which a child-care facility located in a temporary shelter that provides care for children temporarily residing in the shelter and other children is required to be licensed under Chapter 42, Human Resources Code, as amended by this Act, takes effect on the effective date of this Act.

(f) The executive commissioner of the Health and Human Services Commission shall adopt rules and minimum standards as required by Section 42.042(g-2), Human Resources Code, as added by this Act, as soon as practicable after the effective date of this Act, but not later than September 1, 2010.

Committee Amendment No. 2

Amend **SB 68** (Senate engrossment) in SECTION 4 of the bill, by striking amended Section 42.042(i), Human Resources Code (page 9, lines 19 through 25), and substituting the following:

(i) Before adopting minimum standards, the department shall:

(1) convene a temporary work group to advise the department regarding the proposed standards, composed of at least six members who represent the diverse geographic regions of this state, including:

(A) a department official designated by the commissioner to facilitate the work group's activities;

(B) a person with demonstrated expertise or knowledge regarding the different types and classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards;

(C) a parent with experience related to one of the different types or classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards; and

(D) a representative of a nonprofit entity licensed under Chapter 42; and

(2) ~~[present the proposed standards to the State Advisory Committee on Child-Care Facilities for review and comment, and shall]~~ send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to ~~[the committee and]~~ the department.

Floor Amendment No. 3

Amend **SB 68** (House committee printing) as follows:

(1) In SECTION 1 of the bill, in the recital for that section (page 1, line 7), strike "(7)," and substitute "(4), (7),".

(2) In SECTION 1 of the bill, in amended Section 42.002, Human Resources Code (page 1, between lines 8 and 9), insert the following:

(4) "General residential operation [~~Child care institution~~]" means a child-care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment centers, emergency shelters, and therapeutic camps.

(3) In SECTION 1 of the bill, in amended Section 42.002(19), Human Resources Code (page 2, lines 7 and 8), strike "child-care institutions" and substitute "general residential operations [~~child care institutions~~]".

(4) In SECTION 3 of the bill, in the recital for that section (page 2, lines 25 and 26), strike "Subsection (b), Section 42.041, Human Resources Code, is" and substitute "Subsections (b) and (c), Section 42.041, Human Resources Code, are".

(5) In SECTION 3 of the bill, immediately following amended Section 42.041(b), Human Resources Code (page 8, between lines 24 and 25), insert the following:

(c) A single license that lists addresses and the appropriate facilities may be issued to a general residential operation [~~child care institution~~] that operates noncontiguous facilities that are across the street from, in the same city block as, or on the same property as one another and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(6) In SECTION 4 of the bill, in the recital for that section (page 8, line 26) as amended by Committee Amendment No. 1, strike "(g)" and substitute "(f), (g),".

(7) In SECTION 4 of the bill, in amended Section 42.042, Human Resources Code, as amended by Committee Amendment Nos. 1 and 2, immediately after the recital (page 8, after line 27), insert the following:

(f) In promulgating minimum standards for the provision of child-care services, the department shall recognize the various categories of services, including services for specialized care, the various categories of children and their particular needs, and the differences in the organization and operation of child-care facilities and general residential operations [~~institutions~~]. Standards for general residential operations [~~child care institutions~~] must require an intake study before a child is placed in an operation [~~institution~~]. The intake study may be conducted at a community mental health and mental retardation center.

(8) In SECTION 4 of the bill, in amended Section 42.042(g), Human Resources Code (page 9, lines 5 and 6), strike "child-care institutions" and substitute "general residential operations [~~child care institutions~~]".

(9) In SECTION 7 of the bill, in amended Section 42.0461(a), Human Resources Code (page 11, lines 19 and 20) strike "child care institution" and substitute "general residential operation [~~child care institution~~]".

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

SECTION _____. Subchapter A, Chapter 42, Human Resources Code, is amended by adding Section 42.003 to read as follows:

Sec. 42.003. REFERENCE TO CHILD-CARE INSTITUTION. A reference in law to a "child-care institution" means a general residential operation.

SECTION _____. Section 42.0422, Human Resources Code, is amended to read as follows:

Sec. 42.0422. RESTRAINT AND SECLUSION. A person providing services to a resident of a general residential operation [~~child care institution~~], including a state-operated facility that is a residential treatment center or a general residential operation [~~child care institution~~] serving children with mental retardation, shall comply with Chapter 322, Health and Safety Code, and the rules adopted under that chapter.

SECTION _____. Section 42.063(d), Human Resources Code, is amended to read as follows:

(d) An employee or volunteer of a general residential operation [~~child care institution~~], child-placing agency, foster home, or foster group home shall report any serious incident directly to the department if the incident involves a child under the care of the operation [~~institution~~], agency, or home.

Floor Amendment No. 4

Amend **SB 68** (House committee printing) as follows:

(1) In SECTION 14 of the bill, in Subdivision (1) of that section (page 15, line 26) strike "and".

(2) In SECTION 14 of the bill, in Subdivision (2) of that section (page 15, line 27), between "42.0431" and the period, insert the following:
; and

(3) Subsections (a-1), (d), and (e), Section 42.056

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

SECTION _____. Section 40.006, Human Resources Code, is amended to read as follows:

Sec. 40.006. APPLICATION OF OTHER LAWS. (a) The department is subject to Chapters 551, 2001, and 2002, Government Code.

(b) The department is not required to comply with Chapter 53, Occupations Code, in issuing a license or conducting a background check under Chapter 42 or 43.

SECTION _____. Section 42.056, Human Resources Code, is amended by amending Subsections (a), (a-2), (b), (b-1), (c), (f), (g), (h), (i), and (j) and adding Subsections (a-3), (a-4), and (a-5) to read as follows:

(a) In accordance with rules adopted by the executive commissioner [~~department~~], the director, owner, or operator of a child-care facility, child-placing agency, or family home shall, when applying to operate a child-care facility or child-placing agency or when listing or registering a family home and at least once

during each 24 months after receiving a license, listing, registration, or certification of approval, submit to the department for use in conducting background and criminal history checks the name of:

(1) ~~[the name of]~~ the director, owner, and operator of the facility, agency, or home;

(2) ~~[, and the name of]~~ each person employed at the facility, agency, or home;

(3) each prospective employee of the facility, agency, or home;

(4) each current or prospective foster parent providing foster care through a child-placing agency;

(5) each prospective adoptive parent seeking to adopt through a child-placing agency;

(6) each person at least 14 years of age, other than a client in care, who:
(A) is counted in child-to-caregiver ratios in accordance with the minimum standards of the department;

(B) will reside in a prospective adoptive home if the adoption is through a child-placing agency;

(C) has unsupervised access to children in care at the facility or family home; or

(D) resides in the facility or family home; or ~~[and]~~

(7) ~~[(2) the name of]~~ each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at a ~~[the]~~ facility, family ~~[or]~~ home, or prospective adoptive home, while children are being provided care.

(a-2) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a day-care center shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a), unless the person is only required to have the person's name submitted based on criteria specified by Subsection (a)(7).

(a-3) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-placing agency, foster home, or foster group home must, before a child for whom the department is the managing conservator is placed with the agency or in the home, submit a complete set of fingerprints of the following persons:

(1) a person who applies to be a foster or adoptive parent, including a person who has previously adopted a child unless the person is also verified as a foster or adoptive home; and

(2) a person who is 18 years of age or older and who lives in the home of a person who applies to be a foster or adoptive parent.

(a-4) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility or family home shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a) if:

(1) the person resided in another state during the five years preceding the date the person's name was required to be submitted under Subsection (a); or

(2) the director, owner, or operator has reason to suspect that the person has a criminal history in another state.

(a-5) The rules adopted by the executive commissioner under Subsections (a-2), (a-3), and (a-4):

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for conducting a criminal history check; ~~and~~

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center; and

(3) may allow the department to waive the submission of fingerprints required by this section if:

(A) the person for whom the submission is required has:

(i) a fingerprint-based criminal history record check on file with the department; or

(ii) a fingerprint-based criminal history clearinghouse record, as provided by Section 411.0845, Government Code, that is accessible to the department through the Department of Public Safety of the State of Texas; and

(B) the date on which the current submission of fingerprints is required occurs before the second anniversary of a previous name-based criminal history check of the person.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection ~~Subsections~~ (a) ~~and (a-1)~~;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose fingerprints are ~~name is~~ submitted ~~by the director, owner, or operator of a day-care center~~ under Subsection (a-2), (a-3), or (a-4) ~~Subsection (a)~~, the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints ~~provided under Subsection (a-2)~~, or causing the fingerprints to be submitted electronically ~~as authorized by that subsection~~, to the Department of Public Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(c) The department by rule shall require a child-care facility, child-placing agency, or registered family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a ~~residential child care~~ facility or family home to the person submitting the request.

(g) Except as otherwise provided by this subsection, a person whose name is submitted [~~by the director, owner, or operator of a day care center~~] under Subsection (a) may not provide direct care or have direct access to a child in a facility or family home [~~day care center~~] before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. A person may be employed at a facility or family home [~~day care center~~] and may provide direct care or have direct access to a child in the facility or family home [~~day care center~~] before the person's criminal history check under Subsection (b-1) is completed if:

(1) the facility or family home is experiencing a staff shortage;

(2) the state criminal history check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the facility or family home [~~day care center~~]; and

(3) [(2)] the person's fingerprints are submitted as soon as possible, but not later than the 30th day after the earliest of the date on which the person first:

(A) provides direct care to a child;

(B) has direct access to a child; or

(C) is hired [~~day care center is experiencing a staffing shortage that, if the day care center were not allowed to employ the person until completion of the federal criminal history check, would result in a staff to child ratio that violates the department's minimum standards~~].

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a facility or family home [~~day care center~~] during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the facility or family home [~~day care center~~], the director, owner, or operator of the facility or family home [~~day care center~~] shall immediately terminate the person's employment.

(i) A director, owner, or operator of a facility or family home [~~day care center~~] commits an offense if the director, owner, or operator knowingly:

(1) fails to submit to the department information about a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

(2) employs the person at the facility or family home [~~day care center~~] or otherwise allows the person to regularly or frequently stay or work at the facility or family home [~~day care center~~] while children are being provided care.

(j) A director, owner, or operator of a facility or family home [~~day care center~~] commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the facility or family home [~~day care center~~], the director, owner, or operator knowingly:

(1) employs the person at the facility or family home [~~day care center~~]; or

(2) otherwise allows the person to regularly or frequently stay or work at the facility or family home [~~day care center~~] while children are being provided care.

SECTION _____. The changes in law made by this Act to Sections 42.056(i) and (j), Human Resources Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is

continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 68**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 470 WITH HOUSE AMENDMENT

Senator Carona called **SB 470** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 470** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to training and continuing education for licensed electrical apprentices.

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

SECTION 1. Section 1305.002, Occupations Code, is amended by adding Subdivision (1-b) to read as follows:

(1-b) "Apprenticeship training program" means an electrical training program that is:

(A) recognized by the Texas Workforce Commission or the Texas Higher Education Coordinating Board;

(B) registered with the United States Department of Labor; or

(C) a competency-based standardized craft training program that meets the training program standards of the United States Department of Labor Office of Apprenticeship.

SECTION 2. Section 1305.102, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) The commission may adopt rules regarding the registration of apprenticeship training programs and to require registered programs to report the names of persons enrolled in the programs.

SECTION 3. Section 1305.168, Occupations Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Continuing education courses that satisfy the requirements of Subsection (a) ~~[this section]~~ must address safety, the National Electrical Code, as adopted under Section 1305.101, and state laws and rules that regulate the conduct of license holders under this chapter.

(b-1) To renew an electrical apprentice license, a license holder who is not enrolled in an apprenticeship training program must complete four hours of continuing education annually. Continuing education courses that satisfy the requirements of this subsection must address safety, the National Electrical Code, as adopted under Section 1305.101, and state laws and rules that regulate the conduct of license holders under this chapter.

SECTION 4. The change in law made by this Act applies to the renewal of an electrical apprentice license that expires on or after September 1, 2010. A license that expires before September 1, 2010, is governed by the law in effect on the date the license was issued, and the former law is continued in effect for that purpose.

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

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 470**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 698 WITH HOUSE AMENDMENTS

Senator Ellis called **SB 698** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 698** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the establishment of a registry at the Texas Department of Insurance of certain legal entities alleged to have sold race-based insurance coverage.

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

SECTION 1. Chapter 521, Insurance Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. RACE-BASED INSURANCE REGISTRY

Sec. 521.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies to any legal entity engaged in the business of insurance in this state, including:

- (1) a capital stock insurance company;
- (2) a mutual insurance company;
- (3) a title insurance company;
- (4) a fraternal benefit society;
- (5) a local mutual aid association;
- (6) a statewide mutual assessment company;
- (7) a county mutual insurance company;
- (8) a Lloyd's plan;
- (9) a reciprocal or interinsurance exchange;
- (10) a stipulated premium company;
- (11) a group hospital service corporation;
- (12) a farm mutual insurance company;
- (13) a risk retention group;
- (14) an eligible surplus lines insurer; and
- (15) an agent, broker, adjuster, or life and health insurance counselor.

Sec. 521.152. REGISTRY; INTERNET POSTING. (a) The commissioner shall establish a registry of each legal entity engaged in the business of insurance in this state that, formally or informally, has entered into an agreement with the department:

(1) that disposes of allegations of race-based pricing; and
(2) under which all or part of the relief agreed on to make insureds whole includes a claims-made offer that remains in place and has not otherwise expired under the terms of the agreement.

(b) The registry must be prominently published on the department's Internet website, and must:

(1) identify:

(A) each insurance company that has entered into an agreement described by Subsection (a); and

(B) the eligibility and terms of the insurance company's claims-made offer; and

(2) include:

(A) a claim form; and

(B) links to the Internet website of the insurance company that is administering the claims-made offer.

Sec. 521.153. ADDITIONS TO REGISTRY FOR EXPIRED CLAIMS-MADE OFFERS. (a) The commissioner shall encourage those insurance companies who, but for the fact that any applicable claims-made offer has expired, would be listed in the registry under Section 521.152, voluntarily to:

(1) participate in the registry; and

(2) extend or revive the claims-made offer previously agreed on for a five-year period beginning on September 1, 2009.

(b) The department shall identify in the registry an insurance company described by Subsection (a) that does not agree to revive or extend the claims-made offer period.

Sec. 521.154. PRESERVATION OF CERTAIN RECORDS REGARDING RACE-BASED PRICING. (a) Notwithstanding Chapter 441, Government Code, the department shall preserve all examinations, exhibits to examinations, and other relevant documents regarding race-based pricing that the department has gathered or created with respect to a race-based pricing investigation that is completed or ongoing on September 1, 2009, other than those for which an attorney-client or attorney work product privilege can be claimed, until the time that those documents are eligible for delivery under Subsection (b).

(b) On the completion of the department's race-based pricing investigation, but not later than January 15, 2011, the department shall deliver the records identified under Subsection (a) or copies of those records to the state archivist.

(c) The state archives shall:

(1) using best efforts, preserve and catalogue the records identified under Subsection (a); and

(2) make the records available to the public as soon as appropriate, but not later than January 15, 2015.

SECTION 2. The commissioner of insurance shall establish the registry as required by Subchapter D, Chapter 521, Insurance Code, as added by this Act, not later than January 1, 2010.

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

Floor Amendment No. 1

Amend **CSSB 698** (House committee printing) by striking Section 521.153 and renumber sections appropriately.

The amendments were read.

Senator Ellis moved to concur in the House amendments to **SB 698**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1225 WITH HOUSE AMENDMENT

Senator Huffman called **SB 1225** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1225** (House committee report) on page 2, line 10, by striking (H), and by adding a new subdivision (H) as follows:

(H) the Schools of Medicine at Texas Tech University Health Sciences Center;

The amendment was read.

Senator Huffman moved to concur in the House amendment to **SB 1225**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 279 WITH HOUSE AMENDMENT

Senator Nelson called **SB 279** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 279** (House committee report) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 153, Family Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. MILITARY DUTY

Sec. 153.701. **DEFINITIONS.** In this subchapter:

(1) "Designated person" means the person ordered by the court to temporarily exercise a conservator's rights, duties, and periods of possession and access with regard to a child during the conservator's military deployment, military mobilization, or temporary military duty.

(2) "Military deployment" means the temporary transfer of a service member of the armed forces of this state or the United States serving in an active-duty status to another location in support of combat or some other military operation.

(3) "Military mobilization" means the call-up of a National Guard or Reserve service member of the armed forces of this state or the United States to extended active duty status. The term does not include National Guard or Reserve annual training.

(4) "Temporary military duty" means the transfer of a service member of the armed forces of this state or the United States from one military base to a different location, usually another base, for a limited time for training or to assist in the performance of a noncombat mission.

Sec. 153.702. TEMPORARY ORDERS. (a) If a conservator is ordered to military deployment, military mobilization, or temporary military duty that involves moving a substantial distance from the conservator's residence so as to materially affect the conservator's ability to exercise the conservator's rights and duties in relation to a child, either conservator may file for an order under this subchapter.

(b) The court may render a temporary order in a proceeding under this subchapter regarding:

(1) possession of or access to the child; or

(2) child support.

(c) A temporary order rendered by the court under this subchapter may grant rights to and impose duties on a designated person regarding the child, except the court may not require the designated person to pay child support.

(d) After a conservator's military deployment, military mobilization, or temporary military duty is concluded, and the conservator returns to the conservator's usual residence, the temporary orders under this section terminate and the rights of all affected parties are governed by the terms of any court order applicable when the conservator is not ordered to military deployment, military mobilization, or temporary military duty.

Sec. 153.703. APPOINTING DESIGNATED PERSON FOR CONSERVATOR WITH EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD. (a) If the conservator with the exclusive right to designate the primary residence of the child is ordered to military deployment, military mobilization, or temporary military duty, the court may render a temporary order to appoint a designated person to exercise the exclusive right to designate the primary residence of the child during the military deployment, military mobilization, or temporary military duty in the following order of preference:

(1) the conservator who does not have the exclusive right to designate the primary residence of the child;

(2) if appointing the conservator described by Subdivision (1) is not in the child's best interest, a designated person chosen by the conservator with the exclusive right to designate the primary residence of the child; or

(3) if appointing the conservator described by Subdivision (1) or the person chosen under Subdivision (2) is not in the child's best interest, another person chosen by the court.

(b) A designated person named in a temporary order rendered under this section has the rights and duties of a nonparent appointed as sole managing conservator under Section 153.371.

(c) The court may limit or expand the rights of a nonparent named as a designated person in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.704. APPOINTING DESIGNATED PERSON TO EXERCISE VISITATION FOR CONSERVATOR WITH EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD IN CERTAIN CIRCUMSTANCES. (a) If the court appoints the conservator without the exclusive right to designate the primary residence of the child under Section 153.703(a)(1), the court may award visitation with the child to a designated person chosen by the conservator with the exclusive right to designate the primary residence of the child.

(b) The periods of visitation shall be the same as the visitation to which the conservator without the exclusive right to designate the primary residence of the child was entitled under the court order in effect immediately before the date the temporary order is rendered.

(c) The temporary order for visitation must provide that:

(1) the designated person under this section has the right to possession of the child for the periods and in the manner in which the conservator without the exclusive right to designate the primary residence of the child is entitled under the court order in effect immediately before the date the temporary order is rendered;

(2) the child's other conservator and the designated person under this section are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator;

(3) the designated person under this section has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the person has possession of the child; and

(4) the designated person under this section is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(d) The court may limit or expand the rights of a nonparent designated person named in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.705. APPOINTING DESIGNATED PERSON TO EXERCISE VISITATION FOR CONSERVATOR WITHOUT EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD. (a) If the conservator without the exclusive right to designate the primary residence of the child is ordered to military deployment, military mobilization, or temporary military duty, the court may award visitation with the child to a designated person chosen by the conservator, if the visitation is in the best interest of the child.

(b) The temporary order for visitation must provide that:

(1) the designated person under this section has the right to possession of the child for the periods and in the manner in which the conservator described by Subsection (a) would be entitled if not ordered to military deployment, military mobilization, or temporary military duty;

(2) the child's other conservator and the designated person under this section are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator;

(3) the designated person under this section has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the designated person has possession of the child; and

(4) the designated person under this section is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(c) The court may limit or expand the rights of a nonparent designated person named in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.706. TEMPORARY ORDER FOR CHILD SUPPORT. A temporary order rendered under this subchapter may result in a change of circumstances sufficient to justify a temporary order modifying the child support obligations of a party.

Sec. 153.707. EXPEDITED HEARING. (a) On a motion by the conservator who has been ordered to military deployment, military mobilization, or temporary military duty, the court shall, for good cause shown, hold an expedited hearing if the court finds that the conservator's military duties have a material effect on the conservator's ability to appear in person at a regularly scheduled hearing.

(b) A hearing under this section shall, if possible, take precedence over other suits affecting the parent-child relationship not involving a conservator who has been ordered to military deployment, military mobilization, or temporary military duty.

(c) On a motion by any party, the court shall, after reasonable advance notice and for good cause shown, allow a party to present testimony and evidence by electronic means, including by teleconference or through the Internet.

Sec. 153.708. ENFORCEMENT. Temporary orders rendered under this subchapter may be enforced by or against the designated person to the same extent that an order would be enforceable against the conservator who has been ordered to military deployment, military mobilization, or temporary military duty.

Sec. 153.709. ADDITIONAL PERIODS OF POSSESSION OR ACCESS. (a) Not later than the 90th day after the date a conservator without the exclusive right to designate the primary residence of the child who is a member of the armed services concludes the conservator's military deployment, military mobilization, or temporary military duty, the conservator may petition the court to:

(1) compute the periods of possession of or access to the child to which the conservator would have otherwise been entitled during the conservator's deployment; and

(2) award the conservator additional periods of possession of or access to the child to compensate for the periods described by Subdivision (1).

(b) If the conservator described by Subsection (a) petitions the court under Subsection (a), the court:

(1) shall compute the periods of possession or access to the child described by Subsection (a)(1); and

(2) may award to the conservator additional periods of possession of or access to the child for a length of time and under terms the court considers reasonable, if the court determines that:

(A) the conservator was on military deployment, military mobilization, or temporary military duty in a location where access to the child was not reasonably possible; and

(B) the award of additional periods of possession of or access to the child is in the best interest of the child.

(c) In making the determination under Subsection (b)(2), the court:

(1) shall consider:

(A) the periods of possession of or access to the child to which the conservator would otherwise have been entitled during the conservator's military deployment, military mobilization, or temporary military duty, as computed under Subsection (b)(1);

(B) whether the court named a designated person under Section 153.705 to exercise limited possession of the child during the conservator's deployment; and

(C) any other factor the court considers appropriate; and

(2) is not required to award additional periods of possession of or access to the child that equals the possession or access to which the conservator would have been entitled during the conservator's military deployment, military mobilization, or temporary military duty, as computed under Subsection (b)(1).

(d) After the conservator described by Subsection (a) has exercised all additional periods of possession or access awarded under this section, the rights of all affected parties are governed by the terms of the court order applicable when the conservator is not ordered to military deployment, military mobilization, or temporary military duty.

SECTION 2. Section 156.006, Family Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (b)(2) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 3. Section 156.101, Family Code, is amended to read as follows:

Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) The court may modify an order that provides for the appointment of a conservator of a child, that provides the terms and conditions of conservatorship, or that provides for the possession of or access to a child if modification would be in the best interest of the child and:

(1) the circumstances of the child, a conservator, or other party affected by the order have materially and substantially changed since the earlier of:

(A) the date of the rendition of the order; or

(B) the date of the signing of a mediated or collaborative law settlement agreement on which the order is based;

(2) the child is at least 12 years of age and has filed with the court, in writing, the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child; or

(3) the conservator who has the exclusive right to designate the primary residence of the child has voluntarily relinquished the primary care and possession of the child to another person for at least six months.

(b) Subsection (a)(3) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 4. Section 156.102, Family Code, is amended by adding Subsection (d) to read as follows:

(d) Subsection (b)(3) does not apply to a person who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 5. Section 156.105, Family Code, is amended to read as follows:

Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY DUTY [DEPLOYMENT]. ~~[(a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:~~

~~[(1) is not provided the option of being accompanied by the person's child; and~~

~~[(2) is serving in a location where access to the person's child is not reasonably possible.~~

~~[(b)] The military duty of a conservator who is ordered to military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701, does not by itself constitute [of a person who is a possessory conservator or a joint managing conservator without the exclusive right to designate the primary residence of the child is] a material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to a child except that the court may render a temporary order under Subchapter L, Chapter 153.~~

~~[(c) If the court determines that modification is in the best interest of the child, the court may modify the order or decree to provide in a manner consistent with Section 153.3161 for possession of the child during the period of the military deployment by a person designated by the deployed conservator.]~~

SECTION 6. Sections 153.3161 and 156.410, Family Code, are repealed.

SECTION 7. The changes in law made by this Act apply to a suit affecting the parent-child relationship that is pending in a trial court on the effective date of this Act or filed on or after that date.

SECTION 8. This Act takes effect September 1, 2009.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 279**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 882 WITH HOUSE AMENDMENT

Senator Carona called **SB 882** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 882** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the powers and duties of a regional tollway authority.

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

SECTION 1. Section 366.178, Transportation Code, is amended by adding Subsection (j) to read as follows:

(j) In addition to the other powers and duties provided by this chapter, an authority has the same powers and duties as the department under Chapter 228, a county under Chapter 284, and a regional mobility authority under Chapter 370, regarding the authority's toll collection and enforcement powers for:

(1) the authority's turnpike projects; and

(2) other toll projects developed, financed, constructed, or operated under an agreement, including a comprehensive development agreement, with the authority.

SECTION 2. Section 366.185, Transportation Code, is amended by adding Subsection (d-2) to read as follows:

(d-2) Notwithstanding Subsection (d-1), if the contract amount exceeds \$50 million, the rules adopted under Subsection (d) may provide for a stipend to be offered to an unsuccessful design-build firm that submits a response to the authority's request for additional information, in an amount that:

(1) may exceed \$250,000; and

(2) is reasonably necessary, as determined by the authority in its sole discretion, to compensate an unsuccessful firm for:

(A) preliminary engineering costs associated with the development of the proposal by the firm; and

(B) the value of the work product contained in the proposal, including the techniques, methods, processes, and information contained in the proposal.

SECTION 3. Subsection (g), Section 366.407, Transportation Code, is amended to read as follows:

(g) Except as provided by this subsection, a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private participant, not to exceed a total term of 52 years. The contract must contain an explicit mechanism for setting the price for the purchase by the authority ~~[department]~~ of the interest of the private participant in the contract and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the contract.

SECTION 4. Sections 366.2521 and 366.2522, Transportation Code, are repealed.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 882**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 575 WITH HOUSE AMENDMENT

Senator Davis called **SB 575** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 on Third Reading

Amend **SB 575** (House committee report) on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 321, Tax Code, is amended by adding Section 321.1055 to read as follows:

Sec. 321.1055. IMPOSITION OF FIRE CONTROL OR CRIME CONTROL DISTRICT TAX ON THE RESIDENTIAL USE OF GAS AND ELECTRICITY.

(a) This section applies to a fire control, prevention, and emergency medical services district or crime control and prevention district located in all or part of a municipality that imposes a tax on the residential use of gas and electricity under Section 321.105.

(b) The board of directors of a district to which this section applies may, by order or resolution adopted in a public hearing by a vote of a majority of the membership of the board and recorded in the district's minutes:

(1) impose a tax adopted under Section 321.106 or 321.108, as applicable, on receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption within the district of, gas and electricity for residential use;

(2) exempt from taxation the items described by Subdivision (1); or

(3) reimpose the tax under Subdivision (1).

(c) A district that adopts an order or resolution under Subsection (b) shall:

(1) send a copy of the order or resolution to the comptroller by United States certified or registered mail;

(2) send a copy of the order or resolution and a copy of the district's boundaries to each gas and electric company whose customers are subject to the tax by United States certified or registered mail; and

(3) publish notice of the order or resolution in a newspaper of general circulation in the district.

(d) If the residential use of gas and electricity ceases to be taxable in the municipality in which a district is located, then the residential use of gas and electricity is not taxable by the district.

(e) The provisions of Sections 321.201 and 321.204 that govern the computation of municipal taxes on gas and electricity for residential use apply to the computation of district taxes on gas and electricity for residential use under this section.

SECTION _____. Subsection (b), Section 321.3022, Tax Code, is amended to read as follows:

(b) The comptroller on request shall provide to a municipality that has adopted a tax under this chapter information relating to the amount of tax paid to the municipality under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the municipality, that is part of:

- (1) an interlocal agreement;
- (2) a tax abatement agreement;
- (3) a reinvestment zone;
- (4) a tax increment financing district;
- (5) a revenue sharing agreement;
- (6) an enterprise zone;
- (7) a neighborhood empowerment zone;
- (8) a crime control and prevention district;
- (9) a fire control, prevention, and emergency medical services district;

(10) any other agreement, zone, or district similar to those listed in Subdivisions (1)-(9) [~~(1)-(7)~~]; or

(11) [~~(9)~~] any area defined by the municipality for the purpose of economic forecasting.

SECTION _____. The changes in law made by this Act by the addition of Section 321.1055, Tax Code, and the amendment of Section 321.3022(b), Tax Code, take effect January 1, 2010.

The amendment was read.

Senator Davis moved to concur in the House amendment to **SB 575**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 451 WITH HOUSE AMENDMENT

Senator Van de Putte called **SB 451** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 451** as follows:

On page 2, delete line 17.

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 451**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 532 WITH HOUSE AMENDMENTS

Senator Patrick called **SB 532** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 532** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to a physician's delegation of prescriptive authority to physician assistants or advanced practice nurses.

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

SECTION 1. Sections 157.0511(b) and (b-1), Occupations Code, are amended to read as follows:

(b) A physician may delegate the carrying out or signing of a prescription drug order for a controlled substance only if:

(1) the prescription is for a controlled substance listed in ~~Schedule [Schedules]~~ III, IV, or V as established by the commissioner of public health under Chapter 481, Health and Safety Code;

(2) the prescription, including a refill of the prescription, is for a period not to exceed 90 ~~[30]~~ days;

(3) with regard to the refill of a prescription, the refill is authorized after consultation with the delegating physician and the consultation is noted in the patient's chart; and

(4) with regard to a prescription for a child less than two years of age, the prescription is made after consultation with the delegating physician and the consultation is noted in the patient's chart.

(b-1) The board shall adopt rules that require a physician who delegates the carrying out or signing of a prescription drug order under this subchapter to register with the board the name and license number of the physician assistant or advanced practice nurse ~~[maintain records that show when and]~~ to whom a delegation is made. The board may develop and use an electronic online delegation registration process for registration under this subsection ~~[access the physician's records under this subsection as necessary for an investigation]~~.

SECTION 2. Sections 157.053(a) and (e), Occupations Code, are amended to read as follows:

(a) In this section, "primary practice site" means:

(1) the practice location of a physician at which the physician spends the majority of the physician's time;

(2) a licensed hospital, a licensed long-term care facility, or a licensed adult care center where both the physician and the physician assistant or advanced practice nurse are authorized to practice;

(3) a clinic operated by or for the benefit of a public school district to provide care to the students of that district and the siblings of those students, if consent to treatment at that clinic is obtained in a manner that complies with Chapter 32, Family Code;

(4) the residence of an established patient; ~~[or]~~

(5) another location at which the physician is physically present with the physician assistant or advanced practice nurse; or

(6) a practice location providing care for established patients for a physician assistant or advanced practice nurse who practices on-site with the physician more than 50 percent of the time.

(e) A physician's authority to delegate the carrying out or signing of a prescription drug order is limited to:

(1) three physician assistants or advanced practice nurses or their full-time equivalents practicing at the physician's primary practice site or at an alternate practice site under Section 157.0541 unless a waiver is granted under Section 157.0542(b-1); and

(2) the patients with whom the physician has established or will establish a physician-patient relationship.

SECTION 3. Sections 157.0541(a), (c), and (e), Occupations Code, are amended to read as follows:

(a) In this section, "alternate site" means a practice site:

(1) where services similar to the services provided at the delegating physician's primary practice site are provided; and

(2) located within 75 [60] miles of the delegating physician's residence or primary practice site.

(c) Physician supervision is adequate for the purposes of this section if [~~the delegating physician~~]:

(1) the delegating physician:

(A) is on-site with the advanced practice nurse or physician assistant at least 10 [20] percent of the hours of operation of the site each month that the physician assistant or advanced practice nurse is acting with delegated prescriptive authority and is available while on-site to see, diagnose, treat, and provide care to those patients for services provided or to be provided by the physician assistant or advanced practice nurse to whom the physician has delegated prescriptive authority; and

(B) is not prohibited by contract from seeing, diagnosing, or treating a patient for services provided or to be provided by the physician assistant or advanced practice nurse under delegated prescriptive authority [time];

(2) the delegating physician reviews at least 10 percent of the medical charts, including through electronic review of the charts from a remote location, for each advanced practice nurse or physician assistant at the site; and

(3) the delegating physician is available through direct telecommunication for consultation, patient referral, or assistance with a medical emergency.

(e) Unless a waiver is granted under Section 157.0542(b-1), the [The] combined number of advanced practice nurses and physician assistants to whom a physician may delegate under this section and at a primary practice site under Section 157.053 may not exceed three physician assistants or advanced practice nurses or the full-time equivalent of three physician assistants or advanced practice nurses.

SECTION 4. Section 157.0542, Occupations Code, is amended by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b-1) If the board determines that the types of health care services provided by a physician assistant or advanced practice nurse under Section 157.0541 are limited in nature and duration and are within the scope of delegated authority under this subchapter, as defined by board rule, and that patient health care will not be adversely affected, the board may modify or waive:

(1) the limitation on the number of physician assistants or advanced practice nurses, or their full-time equivalents, if the board does not authorize more than six physician assistants or advanced practice nurses or their full-time equivalents;

(2) the mileage limitation; or

(3) the on-site supervision requirements, except that the physician must be available on-site at regular intervals and when on-site the physician must be available to treat patients.

(b-2) A modification or waiver granted under this section may not validate or authorize a contract provision that prohibits a physician from seeing, diagnosing, or treating any patient.

(b-3) In granting a modification or waiver under Subsection (b-1), the board may not limit the authority of the physician to delegate to less than the requirements established under Section 157.0541(a)(2) or Section 157.0541(e) or greater than the requirements established under Section 157.0541(c)(1)(A).

SECTION 5. Not later than January 31, 2010, the Texas Medical Board shall adopt the rules necessary to implement Chapter 157, Occupations Code, as amended by this Act.

SECTION 6. This Act takes effect September 1, 2009.

Floor Amendment No. 1

Amend **CSSB 532** (House committee printing) as follows:

(1) In SECTION 2 of the bill, in amended Section 157.053(e)(1), Occupations Code (page 3, line 4), strike "three" and substitute "four [~~three~~"]".

(2) In SECTION 3 of the bill, in amended Section 157.0541(e), Occupations Code (page 4, lines 17 and 18), strike "three" both times the word appears in Subsection (e) and substitute "four [~~three~~"]".

(3) In the recital to SECTION 4 of the bill (page 4, line 21) between "by" and "adding", insert "amending Subsection (a) and".

(4) In SECTION 4 of the bill, immediately before proposed Section 157.0542(b-1), Occupations Code (page 4, between lines 21 and 22), insert the following:

(a) On determining that the conditions of Subsection (b) have been met, the board may waive or modify any of the site or supervision requirements for a physician to delegate the carrying out or signing of prescription drug orders to an advanced practice nurse or physician assistant under Sections 157.052, 157.053, 157.054, and 157.0541, or under board rules. The board may not waive the limitation on the number of primary or alternate practice sites at which a physician may delegate the carrying out or signing of prescription drug orders or the number of advanced practice nurses or physician assistants to whom a physician may delegate the carrying out or signing of prescription drug orders, except as provided by Subsection (b-1)(1).

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

SECTION _____. Section 157.054(b), Occupations Code, is amended to read as follows:

(b) A physician's authority to delegate under Subsection (a) is limited as follows:

(1) the delegation must be made under a physician's order, standing medical order, standing delegation order, or another order or protocol developed in accordance with policies approved by the facility's medical staff or a committee of the facility's medical staff as provided by the facility bylaws;

(2) the delegation must occur in the facility in which the physician is the medical director, the chief of medical staff, the chair of the credentialing committee, or a department chair;

(3) the delegation may not permit the carrying out or signing of prescription drug orders for the care or treatment of the patients of any other physician without the prior consent of that physician;

(4) delegation in a long-term care facility must be by the medical director and is limited to the carrying out and signing of prescription drug orders to not more than four ~~three~~ advanced practice nurses or physician assistants or their full-time equivalents; and

(5) a physician may not delegate at more than one licensed hospital or more than two long-term care facilities unless approved by the board.

SECTION _____. Section 157.059(f), Occupations Code, is amended to read as follows:

(f) The authority of a physician to delegate under this section is limited to:

(1) four ~~three~~ nurse midwives or physician assistants or their full-time equivalents; and

(2) the designated facility at which the nurse midwife or physician assistant provides care.

Floor Amendment No. 2

Amend **CSSB 532** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 157, Occupations Code, is amended by adding Section 157.0543 to read as follows:

Sec. 157.0543. VOLUNTARY CHARITY CARE AT NONPROFIT CLINIC.

(a) A physician may delegate the carrying out or signing of a prescription drug order to an advanced practice nurse who:

(1) has delegation authority under Section 157.052, 157.053, 157.054, or 157.0541; and

(2) provides without remuneration and in accordance with board rules voluntary charity health care services at a clinic run by or sponsored by a nonprofit organization.

(b) A delegation under this section does not require additional on-site supervision or chart review.

Floor Amendment No. 3

Amend Amendment No. 2 by Coleman to **CSSB 532** by striking proposed Section 157.0543(a)(2), Occupations Code (page 1, lines 11 through 13 of the amendment), and substituting the following:

(2) provides without remuneration and in accordance with board rules voluntary charity health care services at:

(A) a clinic operated or sponsored by a nonprofit organization; or
(B) a temporary facility operated or sponsored by a governmental entity
or nonprofit organization established to serve persons during a declared emergency or
disaster.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 532**, House committee report, on third reading as follows: On page 2, line 25, STRIKE subdivision (6) and substitute and new subdivision (6) to read as follows:

(6) a location where a physician assistant or advanced practice nurse who
practices on-site with the physician more than 50 percent of the time and who in
accordance with board rules:

(A) provides health care services for established patients;

(B) provides without remuneration voluntary charity health care
services at a clinic run or sponsored by a nonprofit organization; or

(C) provides during a declared emergency or disaster without
remuneration voluntary health care services at a temporary facility operated or
sponsored by a governmental entity or nonprofit organization established to serve
persons in this state.

Floor Amendment No. 2 on Third Reading

Amend **CSSB 532** on third reading as follows:

(1) Strike Section 157.0543, Occupations Code, as added by Amendment No. 2 by Coleman on second reading and as amended by Amendment No. 3 by Orr on second reading.

(2) Strike amended Section 157.053(a)(6), Occupations Code, and substitute the following:

(6) a location where a physician assistance or advanced practice nurse who
practices on-site with the physician more than 50 percent of the time and in
accordance with board rules provides:

(A) health care services for established patients;

(B) without remuneration voluntary charity health care services at a
clinic run or sponsored by a nonprofit organization; or

(C) without remuneration voluntary health care services during a
declared emergency or disaster at a temporary facility operated or sponsored by a
governmental entity or nonprofit organization and established to serve persons in this
state.

The amendments were read.

Senator Patrick moved to concur in the House amendments to **SB 532**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 223 WITH HOUSE AMENDMENTS

Senator West called **SB 223** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 223** (House committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; ~~[or]~~

(2) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest; or

(3) the person is placed on deferred adjudication community supervision under Section 5, Article 42.12, for the offense for which the person was arrested, if the judge subsequently discharges the person and dismisses the proceedings and the person is subsequently pardoned for the offense.

(b) The change in law made by this section in amending Article 55.01(a), Code of Criminal Procedure, applies to a defendant seeking expunction of records and files relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

Floor Amendment No. 2

Amend **SB 223** (House committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; [~~or~~]

(2) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest; or

(3) the person is placed on deferred adjudication community supervision under Section 5, Article 42.12, for the offense for which the person was arrested, if the judge subsequently discharges the person and dismisses the proceedings and the person is subsequently pardoned for the offense.

(b) The change in law made by this section in amending Article 55.01(a), Code of Criminal Procedure, applies to a defendant seeking expunction of records and files relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

The amendments were read.

Senator West moved to concur in the House amendments to **SB 223**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 572 WITH HOUSE AMENDMENTS

Senator Shapiro called **SB 572** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 572** (House committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. This Act shall be known as Jacob's Law.

Floor Amendment No. 2

Amend **SB 572** as follows:

(1) In SECTION 1 of the bill, in added Section 42.0421(e), Human Resources Code (page 1, line 7, House committee printing), strike "The" and substitute "In addition to other training required by this section, the".

(2) In SECTION 1 of the bill, in added Section 42.0421(e), Human Resources Code (page 1, line 8, House committee printing), strike "family home," and substitute "registered family home,".

The amendments were read.

Senator Shapiro moved to concur in the House amendments to **SB 572**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 963 WITH HOUSE AMENDMENT

Senator Ellis called **SB 963** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 963** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to regulation of premium rates for long-term care insurance.

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

SECTION 1. Subchapter B, Chapter 1651, Insurance Code, is amended by adding Section 1651.056 to read as follows:

Sec. 1651.056. REVIEW; APPROVAL OR DISAPPROVAL OF PREMIUM RATES. (a) A long-term care premium rate may not be used until the rate has been filed with the department and approved by the commissioner.

(b) The commissioner may disapprove a long-term care premium rate that is not actuarially justified or does not comply with standards established under this chapter or adopted by rule by the commissioner.

(c) An insurer who obtains the commissioner's approval of an increase of a long-term care premium rate under Subsection (a) shall:

(1) notify policyholders of the scheduled rate increase at least 45 days prior to the date that the policyholder is required to make a premium payment at the increased rate; and

(2) provide contingent nonforfeiture benefits consistent with nationally recognized models and rules adopted by the commissioner.

SECTION 2. This Act applies to any rate increase implemented on or after September 1, 2009.

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

The amendment was read.

Senator Ellis moved to concur in the House amendment to **SB 963**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1774 WITH HOUSE AMENDMENT

Senator Whitmire called **SB 1774** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **SB 1774** as follows:

(1) On page 1, line 6, strike "Subsection (f)" and substitute "Subsections (f) and (i)".

(2) On page 1, lines 8 and 9, strike "A clerk in a county with a population of 1.7 million of more may dispose" and substitute "Subject to Subsections (g), (h), (i), and (j), a [A] clerk [in a county with a population of 1.7 million or more] may dispose".

(3) On page 1, line 19, strike "under" and substitute "as described by".

(4) On page 2, between lines 4 and 5, insert the following:

(i) If a request is not received by a clerk covered by Subsection (g) [~~of this article~~] before the 31st day after the date of notice, the clerk may dispose of the eligible exhibit in the manner permitted by this article, including the delivery of the eligible exhibit for disposal as surplus or salvage property as described by Subsection (f).

The amendment was read.

Senator Whitmire moved to concur in the House amendment to **SB 1774**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1715 WITH HOUSE AMENDMENT

Senator West called **SB 1715** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **SB 1715** (engrossed version), in SECTION 3 of the bill (page 2, line 3), by striking "September 1, 2009" and substituting "January 1, 2010".

The amendment was read.

Senator West moved to concur in the House amendment to **SB 1715**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1672 WITH HOUSE AMENDMENT

Senator Nichols called **SB 1672** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1672** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 201.004, Property Code, is amended by adding Subsection (d) to read as follows:

(d) If existing originally applicable restrictions provide a procedure for extension, that procedure may be used for successive extensions of the originally applicable restrictions unless the original restriction instrument expressly prohibits the procedure from being used for successive extensions.

The amendment was read.

Senator Nichols moved to concur in the House amendment to **SB 1672**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 1722

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1722** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1722** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Hinojosa, Hegar, Huffman, and Seliger.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 2009

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 268, Directing the Texas Facilities Commission to name a permanent facility at The University of Texas of the Permian Basin in honor of Buddy and Shirley West.

SB 771, Relating to the determination of the value of property for ad valorem tax purposes, including appeals through binding arbitration of appraisal review board orders determining protests of property value determinations.

(Committee Substitute)

SB 806, Relating to the imposition of a disciplinary action on a licensed nursing facility administrator; providing a penalty.

(Amended)

SB 870, Relating to the duties of the interagency obesity council and the Department of Agriculture relating to health, wellness, and prevention of obesity.

(Amended)

SB 939, Relating to a memorandum of understanding between the Texas Education Agency and the Department of Family and Protective Services addressing exchange of information regarding students in foster care.

(Amended)

SB 978, Relating to the creation and financing of public improvement districts.

(Amended)

SB 1068, Relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general.

(Amended)

SB 1199, Relating to refunds of and credits for certain sales and use taxes paid by certain exempt organizations.

(Amended)

SB 1201, Relating to an affidavit required to be filed in a cause of action against certain licensed or registered professionals.

(Committee Substitute)

SB 1247, Relating to the imposition of the municipal hotel occupancy tax by certain eligible central municipalities.

(Committee Substitute/Amended)

SB 1263, Relating to certain mass transit entities.

(Committee Substitute/Amended)

SB 1273, Relating to the prosecution of and punishment for the theft of certain electronic equipment and interference with certain radio frequencies.

(Amended)

SB 1304, Relating to notice to students of a public institution of higher education of the required use of a portion of a student's tuition payments to provide student financial aid.

(Committee Substitute)

SB 1317, Relating to education and examination requirements for the issuance of a driver's license to certain persons.
(Committee Substitute)

SB 1343, Relating to the formula funding for public institutions of higher education for certain credit hours that do not count toward a degree.
(Amended)

SB 1369, Relating to the appointment of attorneys ad litem.
(Amended)

SB 1440, Relating to orders and judgments rendered by associate judges in child support and child protection cases.
(Amended)

SB 1458, Relating to the authority of the governing body of a municipality or the commissioners court of a county to enter into an ad valorem tax abatement agreement.
(Committee Substitute)

SB 1492, Relating to the delay of retail electric competition in the areas of the state covered by the Southeastern Electric Reliability Council and to the recovery of certain transmission costs by electric utilities in those areas and to the provision of power during a natural disaster or declared emergency.
(Amended)

SB 1616, Relating to the fees for certain license plates.
(Amended)

SB 1629, Relating to the persons exempted from the required prepayment of the personnel costs incurred by a governmental body in responding to requests from a requestor under the public information law that require large amounts of personnel time.
(Amended)

SB 1645, Relating to a study of the feasibility of establishing separate reimbursement under the Medicaid vendor drug program for certain pharmacy care management services.
(Amended)

SB 1735, Relating to the employment and commissioning of law enforcement personnel to provide security services to certain educational institutions.
(Amended)

SB 1742, Relating to the regulation of the discharge of firearms and certain other weapons by certain municipalities; providing a criminal penalty.
(Committee Substitute)

SB 1757, Relating to the disposal of unused pharmaceuticals so that they do not enter a wastewater system.
(Committee Substitute)

SB 1759, Relating to the extended registration of a commercial fleet of motor vehicles.
(Committee Substitute)

SB 1764, Relating to the dissemination of information regarding the cost of attending public and private institutions of higher education and regarding the availability of financial aid to assist in paying that cost.

(Committee Substitute)

SB 1804, Relating to medical assistance reimbursement for wheeled mobility systems for recipients of medical assistance.

(Amended)

SB 2033, Relating to adoption of a school district grading policy.

(Committee Substitute)

SB 2047, Relating to the interception or the collection of information from certain communications in an investigation of criminal conduct.

(Amended)

SB 2064, Relating to the issuance of state and local government securities, including the powers and duties of the Bond Review Board and the issuance of private activity bonds.

(Committee Substitute)

SB 2080, Relating to the establishment of a strategy for reducing child abuse and neglect and improving child welfare.

(Amended)

SB 2096, Relating to the creation of and the powers of a comprehensive multimodal urban transportation authority, including the power to impose taxes, issue bonds, and exercise limited eminent domain authority.

(Committee Substitute)

SB 2253, Relating to the authority of certain municipalities and counties to regulate platting requirements near an international border.

(Committee Substitute/Amended)

SB 2274, Relating to the authority of a school district to impose ad valorem taxes.

(Committee Substitute/Amended)

SB 2279, Relating to the dedication of certain civil penalties for violations of the Deceptive Trade Practices-Consumer Protection Act to provide civil legal services to the indigent.

(Committee Substitute)

SB 2324, Relating to the classification of certain types of marital property in regards to claims for payment of a criminal restitution judgment.

(Committee Substitute)

SB 2440, Relating to the Bexar Metropolitan Water District.

(Committee Substitute)

SB 2468, Relating to the postemployment activities of certain local government officers in certain counties; providing a penalty.

(Amended)

SB 2505, Relating to safety of children who participate in rodeos.
(Committee Substitute)

SB 2543, Relating to the enforcement of rules by the Harris-Galveston Subsidence District and the Fort Bend Subsidence District; providing penalties.
(Amended)

SB 2566, Relating to jurisdiction of the county courts at law in Hunt County and the composition and operation of the Hunt County Juvenile Board.
(Committee Substitute)

SB 2569, Relating to the governing body of the Willacy County Navigation District.
(Committee Substitute)

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

HB 1888 (146 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 2531 (non-record vote)

House Conferees: Chavez - Chair/Davis, Yvonne/Harless/Herrero/Pitts

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

SB 488 (non-record vote)

House Conferees: Harper-Brown - Chair/Chisum/Cohen/Laubenberg/Paxton

SB 686 (non-record vote)

House Conferees: Orr - Chair/Parker/Pierson/Taylor/Turner, Chris

SB 1182 (non-record vote)

House Conferees: Ortiz, Jr. - Chair/Anchia/Creighton/Eiland/Howard, Charlie

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 2196 (146 Yeas, 0 Nays, 1 Present, not voting)

SB 727 (138 Yeas, 5 Nays, 1 Present, not voting)

SB 1152 (145 Yeas, 0 Nays, 1 Present, not voting)

SB 1237 (130 Yeas, 13 Nays, 1 Present, not voting)

SB 2423 (141 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1711 (134 Yeas, 9 Nays, 1 Present, not voting)

HB 2925 (142 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 3552

Pursuant to Rule 13, Section 5A of the Rules of the Texas House, 81st Legislature, the house hereby returns house bill 3552 to the senate for further consideration due to non germane amendments.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE BILL 726 WITH HOUSE AMENDMENTS

Senator Eltife called **SB 726** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 726** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8855 to read as follows:

CHAPTER 8855. PRAIRIELANDS GROUNDWATER CONSERVATION

DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8855.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of the board.

(3) "District" means the Prairielands Groundwater Conservation District.

Sec. 8855.002. NATURE OF DISTRICT; FINDINGS. (a) The district is a groundwater conservation district initially composed of Ellis, Hill, Johnson, and Somervell Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

(c) All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by this chapter and by Chapter 36, Water Code.

(d) Any fees imposed by the district under this chapter are necessary to pay for the costs of accomplishing the purposes of the district, including the conservation and management of groundwater resources, as provided by this chapter and Section 59, Article XVI, Texas Constitution.

Sec. 8855.003. DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Ellis, Hill, Johnson, and Somervell Counties.

Sec. 8855.004. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

Sec. 8855.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the purposes expressed by this chapter and Chapter 36, Water Code. A power granted by this chapter or Chapter 36, Water Code, shall be broadly interpreted to achieve that intent and those purposes.

[Sections 8855.006-8855.020 reserved for expansion]

SUBCHAPTER B. INITIAL ORGANIZATION

Sec. 8855.021. APPOINTMENT OF INITIAL DIRECTORS. (a) The district is governed by a board of eight initial directors appointed as provided by Section 8855.051(a).

(b) Initial directors shall be appointed not later than the 90th day after the effective date of the Act enacting this chapter. If after the 90th day fewer than eight initial directors have been appointed, each unfilled initial director position shall be considered a vacancy and filled by the remaining initial directors.

(c) Except as provided under Subsection (b) for failure to appoint an initial director, if a vacancy occurs on the board in a position for which an initial director has previously been appointed, the appointing county commissioners court for the vacant position shall appoint a person to fill the vacancy in a manner that meets the representational requirements of Section 8855.051.

(d) To be eligible to serve as an initial director, a person must be a registered voter in the appointing county.

(e) Each initial director must qualify to serve as a director under Section 36.055, Water Code.

Sec. 8855.022. ORGANIZATIONAL MEETING OF INITIAL DIRECTORS. As soon as practicable after all the initial directors have qualified under Section 36.055, Water Code, a majority of the initial directors shall convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be held at a suitable location on the Hill College campus in Cleburne, Johnson County, Texas.

Sec. 8855.023. INITIAL TERMS. (a) The two initial directors appointed from each county shall draw lots to determine which director serves an initial term expiring August 31, 2011, and which director serves an initial term expiring August 31, 2013.

(b) Each successor director shall be appointed and shall serve in accordance with Subchapter C.

[Sections 8855.024-8855.050 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 8855.051. GOVERNING BODY; TERMS. (a) Except as provided by Subchapter D, the district is governed by a board of eight directors appointed as follows:

- (1) two directors appointed by the Ellis County Commissioners Court;
- (2) two directors appointed by the Hill County Commissioners Court;
- (3) two directors appointed by the Johnson County Commissioners Court;

and

- (4) two directors appointed by the Somervell County Commissioners Court.

(b) Directors serve staggered four-year terms, with the term of one director from each of the four counties expiring on August 31 of each odd-numbered year.

(c) A director may serve multiple consecutive terms.

Sec. 8855.052. DIRECTOR ELIGIBILITY; QUALIFICATION. (a) To be eligible to serve as a director, a person must be a registered voter in the appointing county.

(b) Each director must qualify to serve under Section 36.055, Water Code.

Sec. 8855.053. VACANCIES. If a vacancy occurs on the board, the appointing county commissioners court for the vacant position shall appoint a person to fill the vacancy. Section 36.051(c), Water Code, does not apply to the district.

Sec. 8855.054. COMPENSATION; REIMBURSEMENT. (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a director may not receive compensation for performing the duties of director.

(b) A director is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

[Sections 8855.055-8855.070 reserved for expansion]

SUBCHAPTER D. DISTRICT EXPANSION

Sec. 8855.071. EXPANSION OF DISTRICT BOUNDARIES. (a) After the effective date of the Act enacting this chapter, the district territory described in Section 8855.003 shall be expanded to include all of the territory in Navarro County, and the governing board described by Section 8855.051(a) shall be expanded to 10 members and include two directors appointed by the Navarro County Commissioners Court, if:

(1) pursuant to Chapter 35, Water Code, the Texas Commission on Environmental Quality designates all or any portion of the territory in Navarro County as a priority groundwater management area; and

(2) following the designation described by Subdivision (1), the commissioners court of Navarro County:

(A) adopts a resolution that states, "By this action of the Navarro County Commissioners Court, all of the territory in Navarro County, Texas, shall, as of the date of this resolution, be included in the boundaries of the Prairielands Groundwater Conservation District"; and

(B) appoints two directors who are registered to vote in Navarro County to the board.

(b) A person appointed under this section must qualify to serve under Section 36.055, Water Code.

(c) At the first regular meeting of the board following the qualification of both directors, the two directors appointed under this section shall draw lots to determine which director serves a term expiring August 31 of the first odd-numbered year after the directors' appointment, and which director serves a term expiring August 31 of the next odd-numbered year.

(d) A director appointed under this section shall otherwise serve in accordance with Subchapter C.

[Sections 8855.072-8855.100 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES

Sec. 8855.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution, including Chapter 36, Water Code.

Sec. 8855.102. CONTRACTS. The district may enter into a contract with any person, public or private, for any purpose authorized by law.

Sec. 8855.103. APPLICABILITY OF DISTRICT REGULATIONS. Groundwater regulation under this chapter applies to all persons except as exempted from permitting under Section 36.117, Water Code, or this chapter.

Sec. 8855.104. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section and notwithstanding Section 8855.103, the district may require a well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8855.105. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, except for a well exempt from permitting under Section 36.117(b)(1), to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8855.106. ENFORCEMENT. (a) The district may enforce this chapter against any person in the manner provided by Chapter 36, Water Code. In lieu of a remedy available to the district under Section 36.102, Water Code, or in addition to those remedies, the district may impose a fee in addition to a fee assessed under Section 8855.152 on a person producing groundwater in violation of a district order or rule, including the failure or refusal to comply with any district order or rule relating to reducing or ceasing groundwater use. The purpose of a fee authorized by this subsection is to serve as a disincentive to producing groundwater except as authorized by the district.

(b) A fee imposed under Subsection (a) may not exceed an amount equal to 10 times the amount of a fee assessed under Section 8855.152.

[Sections 8855.107-8855.150 reserved for expansion]

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 8855.151. TAXES PROHIBITED. The district may not impose a tax. Sections 36.020(a) and 36.201-36.204, Water Code, do not apply to the district.

Sec. 8855.152. DISTRICT REVENUES. (a) The district by rule, resolution, or order may establish, amend, pledge, encumber, spend the proceeds from, and assess to any person production fees, based on the amount of groundwater authorized by permit to be withdrawn from a well or on the amount of water actually withdrawn, to enable the district to fulfill its purposes and regulatory functions as provided by this chapter. The district may use revenue generated by fees it assesses for any lawful purpose.

(b) Notwithstanding any provision of general law to the contrary, a fee authorized by Subsection (a) may not exceed:

(1) \$1 per acre-foot annually for groundwater used for agricultural purposes;

or

(2) 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes.

(c) Notwithstanding any provision of general law or this chapter to the contrary, if any, the district may assess a production fee under this section for groundwater produced from a well or class of wells exempt from permitting under Section 36.117, Water Code, except for a well exempt from permitting under Section 36.117(b)(1). A production fee assessed by the district under this subsection must be based on the amount of groundwater actually withdrawn from the well and may not exceed the amount established by the district for permitted uses under Subsection (b)(2) of this section.

(d) Notwithstanding Section 36.1071(f), Water Code, the district by rule, resolution, or order before the adoption of its management plan may:

(1) establish, assess, and enforce the collection of production fees under this section; and

(2) establish and enforce metering and reporting requirements, except for a well exempt from permitting under Section 36.117(b)(1), Water Code.

(e) The district by rule may establish a temporary or permanent discounted fee rate for persons who prepay production fees to the district under this section on or before the dates established by district rule.

Floor Amendment No. 2

Amend **SB 726** (House committee printing) as follows:

(1) Immediately below the enacting clause (page 1, between lines 5 and 6), add the following appropriately numbered ARTICLES to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE 1. BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION

DISTRICT: DISTRICT TERRITORY; RATIFICATION ELECTION

SECTION 1.01. Section 8802.003, Special District Local Laws Code, is amended to read as follows:

Sec. 8802.003. DISTRICT TERRITORY. (a) The district is composed of the territory described by the Texas Water Commission's August 15, 1986, order, as that territory may have been modified under:

(1) Subchapter J, Chapter 36, Water Code; or

(2) other law.

(b) In addition, the district includes the territory described by Section 2.01 of the Act enacting this subsection.

SECTION 1.02. Subchapter A, Chapter 8802, Special District Local Laws Code, is amended by adding Section 8802.005 to read as follows:

Sec. 8802.005. RATIFICATION ELECTION. (a) Before August 31, 2011, the board of directors shall hold an election to ratify the annexation of the territory described by Section 2.02 of the Act enacting this subsection. If a majority of the voters voting at the election do not vote in favor of ratifying the annexation, the board may hold another election for the same purpose.

(b) Except as provided by this section, a ratification election must be conducted as provided by Section 36.328, Water Code, and the Election Code.

(c) This section expires September 1, 2011.

SECTION 1.03. Section 8802.053, Special District Local Laws Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) As soon as practicable after the publication of each federal decennial census, the board shall revise the single-member districts as the board considers appropriate to reflect population changes.

(c-1) When the board revises the single-member districts [under this subsection], the board shall place two of the districts wholly within the territory described by Section 2.04 of the Act amending Subsection (c) and adding this subsection[-

(1) entirely within the boundaries of the city of Austin, as those boundaries exist at that time; or

(2) within the boundaries of the city of Austin, as those boundaries exist at that time, but also including unincorporated areas or other municipalities that are surrounded wholly or partly by the boundaries of the city of Austin if the areas or municipalities are noncontiguous to the territory of any other single member district].

SECTION 1.04. Subchapter B, Chapter 8802, Special District Local Laws Code, is amended by adding Section 8802.054 to read as follows:

Sec. 8802.054. APPLICABILITY OF OTHER LAW. Section 36.059, Water Code, does not apply to the district.

SECTION 1.05. Sections 8802.051(b) and 8802.053(d), Special District Local Laws Code, are repealed.

SECTION 1.06. This article takes effect September 1, 2009.

ARTICLE 1A. BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION
DISTRICT: FEES; DIRECTORS AND TERRITORY CONTINGENT ON
ANNEXATION

SECTION 1A.01. This article takes effect only if the annexation of the territory described by Section 2.02 of this Act is ratified at an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act. If the annexation of the territory described by Section 2.02 of this Act is not ratified, this article has no effect.

SECTION 1A.02. Section 8802.003, Special District Local Laws Code, is amended by adding Subsection (c) to read as follows:

(c) In addition, the district includes the territory described by Section 2.02 of the Act enacting this subsection.

SECTION 1A.03. Subchapter B, Chapter 8802, Special District Local Laws Code, is amended by adding Sections 8802.0511, 8802.054, and 8802.055 to read as follows:

Sec. 8802.0511. DIRECTORS; TERMS. (a) The district is governed by a board of seven directors who serve staggered four-year terms.

(b) Three directors must be elected by voters residing in the territory described by Section 2.03 of the Act enacting this subsection.

(c) Four directors must be elected by voters of the district who reside outside the territory described by Section 2.03 of the Act enacting this subsection.

Sec. 8802.054. SINGLE-MEMBER DISTRICTS. (a) The district is divided into seven numbered, single-member districts for electing directors.

(b) The board may revise the single-member districts as necessary or appropriate.

(c) When the board revises the single-member districts, the board shall place three of the districts entirely inside and four of the districts entirely outside the territory described by Section 2.03 of the Act enacting this subsection.

(d) When the boundaries of the single-member districts are changed, a director in office on the effective date of the change, or elected or appointed before the effective date of the change to a term of office beginning on or after the effective date of the change, is entitled to serve the term or the remainder of the term in the numbered single-member district to which elected or appointed even though the change in boundaries places the person's residence outside the numbered single-member district for which the person was elected or appointed.

(e) At the first regularly scheduled election of directors after the board of the district is expanded from five to seven directors, directors elected to fill any vacant director positions shall draw lots to determine which of those directors shall serve a two-year term and which shall serve a four-year term. Lots must be determined so that not more than four directors' terms expire in any even-numbered year.

Sec. 8802.055. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than three months after the date of the election under Section 8802.005, the board shall appoint two temporary directors to the board to represent the territory the annexation of which was ratified at the election.

(b) The temporary directors shall serve at large until the next general election of directors of the district under Section 8802.052.

SECTION 1A.04. Section 8802.105(a), Special District Local Laws Code, is amended to read as follows:

(a) Each year the board may assess against the City of Austin a water use fee in an amount not to exceed the lesser of \$900,000 or 60 percent of the total funding the district expects to receive for the next fiscal year from water use fees assessed against Austin and other nonexempt users in that year as computed [~~subject to the computation~~] under Subsection (b).

SECTION 1A.05. Sections 8802.051 and 8802.053, Special District Local Laws Code, are repealed.

SECTION 1A.06. (a) Except as provided by Section 1A.01 of this Act, this article takes effect on the date the annexation of the territory described by Section 2.02 of this Act is ratified at an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act.

(b) If the annexation of territory is ratified at an election described by Subsection (a) of this section, the board of directors of the Barton Springs-Edwards Aquifer Conservation District shall notify the Texas Commission on Environmental Quality of the changes in territory and board members.

ARTICLE 2. BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT: DESCRIPTION OF TERRITORIES

SECTION 2.01. The territory annexed to the Barton Springs-Edwards Aquifer Conservation District under Section 8802.003(b), Special District Local Laws Code, as added by Section 1.01 of this Act, is described as follows:

(1) 1.8750 acres described as Lot 1, Block 1 of Vanisha Development Subdivision, as recorded in Book No. 14, Pages 98-99, Hays County, Texas;

(2) 21.003 acres of land situated in the Thomas G. Allen Survey, Hays County, Texas, being a portion of that certain tract of land in a deed to South Corridor Park, Ltd., recorded in Document No. 00025896, Hays County, Texas; and

(3) 24.628 acres of land situated in the Elisha Pruett Survey, Abstract 23, described in a deed to Hays Consolidated Independent School District, recorded in Document No. 05001881, Hays County, Texas.

SECTION 2.02. The territory annexed to the Barton Springs-Edwards Aquifer Conservation District if ratified at an election under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act, is described as follows:

(1) Beginning at the current eastern district boundary and the Colorado River, running east along the Colorado River to a point where the district boundary intersects Interstate Highway 35, then south along Interstate Highway 35 to William Cannon Drive, then west along Old Lockhart Road, then north on Congress Avenue, then west on Ben White Boulevard, then north on South First Street, then east on Elizabeth Street, then north on Congress Avenue following along the district boundary to the place of beginning; and

(2) Beginning at the current western district boundary and the Colorado River, then following westerly along the southern border of the Colorado River to a point due north of the intersection of Weston Lane and Brightman Lane, then south on that line to said intersection, then south on Weston Lane to its intersection with FM 2244, then west on FM 2244 to its intersection with State Highway 71, then west on State Highway 71 until the intersection with the extraterritorial jurisdiction limits of the City of Bee Cave as of the date of the ratification election under Section 8802.005, Special District Local Laws Code, then generally south and west following the extraterritorial jurisdiction limits of the City of Bee Cave, to exclude the City of Bee Cave and its extraterritorial jurisdiction as of the date of the ratification election under Section 8802.005, Special District Local Laws Code, until it intersects with State Highway 71, then west on Highway 71 until it intersects with Bee Creek Road, then north on Bee Creek Road until it intersects with Siesta Shores Drive, then due east from that intersection to the southern boundary of Lake Travis, then following the southern boundary of Lake Travis until it intersects the Blanco County line, then

following the Blanco County line until it intersects the Hays County line, then east along the Hays County line until its intersection of the district boundary existing before the effective date of this Act, then north following the western district boundary to the Colorado River, the point of beginning.

(3) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

SECTION 2.03. If the annexation of territory is ratified by an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act, the territory for certain voting districts under Sections 8802.0511(a) and (b) and Section 8802.054(c), Special District Local Laws Code, as added by Article 1A of this Act, is described as follows:

(1) Beginning at a point where Interstate Highway 35 crosses the Colorado River in Travis County, then south along Interstate Highway 35 to Slaughter Lane, then west along Slaughter Lane to FM 1826, then north along FM 1826 to U.S. Highway 290, then east along U.S. Highway 290 to Old Bee Cave Road, then northwest along Old Bee Cave Road to Travis Cook Road, then north along Travis Cook Road to Barton Creek Boulevard, then north along Barton Creek Boulevard to FM 2244, then west along FM 2244 to Weston Lane, then north along Weston Lane to Brightman Lane, then due north from that intersection to the Colorado River, then east along the Colorado River to the place of the beginning.

(2) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

SECTION 2.04. The territory for voting districts under Section 8802.053(c-1), Special District Local Laws Code, as added by Section 1.03 of this Act, is described as follows:

(1) Beginning at the eastern district boundary and the Colorado River, then south along the eastern district boundary to the intersection of Interstate Highway 35 and Slaughter Lane; then west along Slaughter Lane to the district boundary, then north along the district boundary to the Colorado River, then east along the Colorado River following the district boundary to the point of the beginning.

(2) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

ARTICLE 3. BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT: JURISDICTIONAL CONFLICT

SECTION 3.01. The Edwards Aquifer Authority maintains sole authority to regulate and manage the San Antonio segment of the Edwards Aquifer.

ARTICLE 4. BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT: INTENT, NOTICE, AND EFFECTIVE DATE

SECTION 4.01. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

SECTION 4.02. Except as provided by Section 1.06, 1A.01, or 1A.06 of this Act, 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, 2009, except as provided by Section 1A.01 or 1A.06 of this Act.

(2) Designate SECTIONS 1 - 3 of the bill (page 1, line 6 through page 10, line 18) as ARTICLE 5 of the bill, insert the ARTICLE heading "HARRISON COUNTY GROUNDWATER CONSERVATION DISTRICT", and renumber those SECTIONS accordingly.

(3) In SECTION 3 of the bill, in the effective date language (page 10, line 14), strike "This Act takes effect immediately if it receives" and substitute "This article takes effect immediately if this Act receives".

(4) In SECTION 3 of the bill, in the effective date language (page 10, line 18), strike "Act" and substitute "article".

The amendments were read.

Senator Eltife moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 726** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Eltife, Chair; Seliger, Deuell, Hinojosa, and Uresti.

SENATE BILL 2513 WITH HOUSE AMENDMENT

Senator Averitt called **SB 2513** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 2513** on page 2, line 19 by striking "10 cents per thousand gallons" and inserting "\$1 per acre-foot".

The amendment was read.

Senator Averitt moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 2513** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; Eltife, Uresti, Duncan, and Williams.

CONFERENCE COMMITTEE ON HOUSE BILL 2275

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2275** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2275** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Lucio, Averitt, Estes, and Eltife.

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **SB 415**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 1035 by Lucio, In memory of Adrian Clare Wolfe of Brownsville.

Congratulatory Resolutions

SR 1032 by Lucio, Commending Lorena Ochoa for her accomplishments as a golfer.

SR 1033 by Lucio, Honoring the memory of Freddy Fender on the occasion of the dedication of the Freddy Fender Memorial in San Benito.

SR 1034 by Lucio, Recognizing the East Rio Hondo Water Supply Corporation on the occasion of the dedication of the Martha Ann Simpson Water Treatment Plant.

SR 1053 by Lucio, Commending Francisca Saucedo for her contributions to the San Benito Consolidated Independent School District.

SR 1054 by Lucio, Recognizing Tim Hull for his achievements as a maker of hand-crafted knives.

SR 1055 by Lucio, Commending Michael Seth Sweatt for achieving the rank of Eagle Scout.

SR 1056 by Lucio, Commending Luis Zaragosa for achieving the rank of Eagle Scout.

SR 1057 by Nelson, Recognizing Joe Phelps for his contributions to the Town of Argyle as a councilmember.

SR 1059 by Jackson, Recognizing Taylor Guterrez of Pearland on the occasion of her graduation from the Texas School for the Deaf.

SR 1061 by Gallegos, Commending Erik Morales and Bea Zarate for their contributions to the Galena Park community.

HCR 228 (Jackson), Honoring Ralph Parr for his service to the Clear Creek Independent School District on the occasion of his retirement from the Clear Creek ISD Board of Trustees.

HCR 233 (Jackson), Congratulating Elizabeth Radicioni on being named Clear Creek ISD Secondary Teacher of the Year.

HCR 234 (Jackson), Congratulating Julie Ballew on being nominated as Clear Creek ISD Elementary Teacher of the Year.

HCR 235 (Jackson), Congratulating Margaret Berti on being nominated as Clear Creek ISD Teacher of the Year.

HCR 236 (Jackson), Congratulating Samantha Youts on being nominated as Clear Creek ISD Secondary Teacher of the Year.

HCR 240 (Jackson), Congratulating Edna Meeks on being nominated as Clear Creek ISD Secondary Teacher of the Year.

HCR 241 (Jackson), Congratulating Dawn Gibler on being named the Clear Creek ISD Elementary Teacher of the Year.

HCR 242 (Jackson), Congratulating John Kennedy on his retirement as city manager of Nassau Bay.

RECESS

On motion of Senator Whitmire, the Senate at 8:10 p.m. recessed until 11:00 a.m. tomorrow.

APPENDIX

BILLS AND RESOLUTIONS ENROLLED

May 27, 2009

SB 252, SB 281, SB 291, SB 413, SB 414, SB 415, SB 504, SB 576, SB 798, SB 801, SB 927, SB 940, SB 1055, SB 1107, SB 1134, SB 1142, SB 1209, SB 1299, SB 1354, SB 1367, SB 1377, SB 1478, SB 1633, SB 1701, SB 1712, SB 1771, SB 1777, SB 1782, SB 1795, SB 1807, SB 1813, SB 1826, SB 1876, SB 1903, SB 1930, SB 1941, SB 1982, SB 1992, SB 1997, SB 2028, SB 2041, SB 2048, SB 2058, SB 2067, SB 2072, SB 2073, SB 2093, SB 2178, SB 2182, SB 2217, SB 2244, SB 2312, SB 2344, SB 2412, SB 2438, SB 2445, SB 2454, SB 2462, SB 2465, SB 2467, SB 2485, SB 2495, SB 2501, SB 2510, SB 2511, SB 2518, SB 2519, SB 2522, SB 2534, SB 2552, SB 2558, SB 2580, SR 1028, SR 1029,

SR 1030, SR 1031, SR 1036, SR 1037, SR 1038, SR 1039, SR 1040, SR 1041, SR 1042, SR 1043, SR 1045, SR 1046, SR 1047, SR 1048, SR 1049, SR 1050, SR 1051, SR 1052

SENT TO GOVERNOR

May 28, 2009

SB 80, SB 202, SB 305, SB 334, SB 348, SB 375, SB 376, SB 410, SB 417, SB 455, SB 490, SB 524, SB 530, SB 584, SB 585, SB 588, SB 596, SB 637, SB 638, SB 662, SB 693, SB 707, SB 748, SB 749, SB 755, SB 794, SB 808, SB 812, SB 880, SB 994, SB 1016, SB 1039, SB 1337, SB 1483, SB 1979, SB 2410, SB 2460, SB 2463, SB 2464, SB 2466, SB 2479, SB 2480, SB 2483, SB 2486, SB 2496, SB 2504, SB 2506, SB 2507, SB 2509, SB 2514, SB 2515, SB 2520, SB 2521, SB 2529, SB 2531, SB 2536, SCR 5, SCR 10, SCR 11, SCR 22, SCR 64, SCR 65