

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-SIXTH DAY

(Monday, May 23, 2011)

The Senate met at 10:16 a.m. pursuant to adjournment and was called to order by Senator Eltife.

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

The Presiding Officer announced that a quorum of the Senate was present.

Pastor John Valenzuela, Community Bible Church, San Antonio, was introduced by Senator Van de Putte and offered the invocation as follows:

Dear Lord, please bless those who lead this great state. I pray that You illuminate the minds and hearts of those in this historic room. I pray that You shower blessings upon the Senators of Your great state. I pray that You open all the doors and windows from heaven and saturate them with Your divine spirit. Anoint them. Appoint them. Transform them. Bring down a piece of heaven into their personal lives. Bless their homes. Bless their families. Bless their relationships. I pray that You give the Senators of Your great state the abundant life. Give them true health. Give them true wealth. Give them true love. Give them true peace. I pray that You lead and guide the Senators of Your great state down Your path, the path of righteousness, the path of grace, the path of mercy, and the path of justice. Direct their steps. Bring clarity in their decision-making. Teach them Your ways. As surely as the heaven is higher than the Earth, so are Your ways higher than theirs. I pray that You protect the Senators of Your great state. Place a hedge of protection around them and all they represent. Keep them safe. Keep them in peace. Keep them in security. In Your name I pray. Amen.

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

The motion prevailed without objection.

SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committees)

On motion of Senator Hegar and by unanimous consent, Senate Rule 11.13 was suspended to grant the conference committee on **HB 1** permission to meet while the Senate was meeting today.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Ogden was granted leave of absence on account of important business.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Monday, May 23, 2011 - 1

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 158 Hartnett

Urging the federal government to grant a conditional green card to certain noncitizens to allow them to enlist in the United States armed forces and urging the federal government to award citizenship to these immigrants upon the completion of four years of honorable military service.

SB 71 Nelson Sponsor: Raymond

Relating to certain reports submitted and analyses conducted regarding health and human services.

(Committee Substitute)

SB 78 Nelson Sponsor: Laubenberg

Relating to adverse licensing, listing, or registration decisions by certain health and human services agencies.

(Committee Substitute)

SB 176 Huffman Sponsor: Branch

Relating to student eligibility for tuition rebates offered by general academic teaching institutions.

(Committee Substitute)

SB 209 Zaffirini Sponsor: Walle

Relating to juvenile case managers.

(Committee Substitute)

- SB 221** Nelson Sponsor: Gonzalez, Naomi
Relating to the Department of Family and Protective Services, including protective services and investigations of alleged abuse, neglect, or exploitation for certain adults who are elderly or disabled; providing a criminal penalty.
(Committee Substitute/Amended)
- SB 222** Nelson Sponsor: Raymond
Relating to access to certain long-term care services and supports under the medical assistance program.
(Committee Substitute)
- SB 263** Carona Sponsor: Kolkhorst
Relating to the revocation or suspension of the license of a physician placed on deferred adjudication community supervision or arrested for certain offenses.
(Committee Substitute)
- SB 349** Eltife Sponsor: Hopson
Relating to the hotel occupancy tax rate in certain municipalities.
(Committee Substitute)
- SB 408** Estes Sponsor: Keffer
Relating to inspection of and the operation of watercraft on the John Graves Scenic Riverway; providing for the imposition of a criminal penalty.
(Committee Substitute)
- SB 502** West Sponsor: Thompson
Relating to determinations of paternity; creating an offense.
(Committee Substitute)
- SB 512** Hegar Sponsor: Creighton
Relating to the qualification of supervisors of a fresh water supply district.
- SB 629** Hegar Sponsor: Isaac
Relating to the Ranch at Clear Fork Creek Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.
(Amended)
- SB 736** Hinojosa Sponsor: Dukes
Relating to membership of local school health advisory councils.
(Committee Substitute)
- SB 747** Carona Sponsor: Hamilton
Relating to the professions regulated by the Texas Real Estate Commission.
(Committee Substitute/Amended)
- SB 768** Watson Sponsor: Dukes
Relating to the creation of the Rio de Vida Municipal Utility District No. 1; providing authority to impose a tax and issue bonds.
(Amended)
- SB 803** Hegar Sponsor: Hunter
Relating to venue projects in certain counties.
(Committee Substitute)

- SB 942** Watson Sponsor: Lucio III
Relating to the creation and financing of the Lakeway Regional Medical Center Defined Area in Travis County Water Control and Improvement District No. 17; providing authority to impose a tax and issue bonds.
(Amended)
- SB 943** Carona Sponsor: Anchia
Relating to the classification, use, and regulation of electric energy storage equipment or facilities.
(Committee Substitute)
- SB 988** Van de Putte Sponsor: Larson
Relating to the creation of a cybersecurity, education, and economic development council.
(Committee Substitute)
- SB 1178** Nelson Sponsor: Raymond
Relating to the regulation of certain shelter day-care facilities, child-care facilities, and individuals providing child-care services, and access to certain criminal history record information; providing an administrative penalty.
(Committee Substitute)
- SB 1250** Lucio Sponsor: Lozano
Relating to the applicability of certain restrictions on the location and operation of concrete crushing facilities.
(Committee Substitute)
- SB 1251** Gallegos Sponsor: Alvarado
Relating to the board of directors of the Greater East End Management District.
(Amended)
- SB 1320** Lucio Sponsor: Gonzales, Veronica
Relating to the execution of deeds conveying residential real estate in connection with certain transactions involving residential real estate.
(Amended)
- SB 1331** Watson Sponsor: Gallego
Relating to criminal offenses regarding the possession or consumption of alcoholic beverages by a minor and providing alcoholic beverages to a minor.
(Amended)
- SB 1386** Lucio Sponsor: Oliveira
Relating to the refusal to register motor vehicles by a county assessor-collector or the Texas Department of Motor Vehicles.
(Amended)
- SB 1422** Nelson Sponsor: Solomons
Relating to coordinated county transportation authorities; creating an offense.
(Committee Substitute)

- SB 1477** Hegar Sponsor: Kleinschmidt
Relating to differential pay and benefits for certain employees of emergency services districts who are members of the armed forces.
(Committee Substitute)
- SB 1662** West Sponsor: Turner
Relating to the payment of costs associated with certain educational programs of Prairie View A&M University.
- SB 1736** Van de Putte Sponsor: Castro
Relating to the establishment of the College Credit for Heroes program.
(Committee Substitute)
- SB 1910** Rodriguez Sponsor: Margo
Relating to the delay of the transition to competition in the Western Electricity Coordinating Council service area and to net metering and energy efficiency goals and programs for utilities in that area.
(Committee Substitute)
- SCR 11** Hegar Sponsor: Morrison
Designating May 22 of each year from 2011 through 2020 as William Elmo Merrem Day in honor of the first Eagle Scout from Texas.
- SCR 16** Nelson Sponsor: Scott
Designating the month of March each year from 2011 through 2020 as Women Veterans Month in tribute to the immeasurable contributions that women in the military have made to this nation.
- SJR 16** Estes Sponsor: Ritter
Proposing a constitutional amendment providing for the appraisal for ad valorem tax purposes of open-space land devoted to water-stewardship purposes on the basis of its productive capacity.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 1001

Senator Jackson offered the following resolution:

SR 1001, Recognizing Eugene A. Cernan for his service to the nation as a naval aviator and astronaut.

The resolution was again read.

The resolution was previously adopted on Monday, May 16, 2011.

GUESTS PRESENTED

Senator Jackson was recognized and introduced to the Senate Gene Cernan, Dick Messbarger, Sandra Messbarger, and Jeannie Kranz.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The Presiding Officer at 10:34 a.m. announced the conclusion of morning call.

(Senator Jackson in Chair)

SENATE BILL 141 WITH HOUSE AMENDMENTS

Senator Eltife called **SB 141** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 141** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to debt management services and the regulation of debt management services providers.

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

SECTION 1. Section 394.202, Finance Code, is amended by adding Subdivisions (3-a), (9-a), and (11-a) and amending Subdivisions (6) and (10) to read as follows:

(3-a) "Concession" means assent to repayment of a debt on terms more favorable to a consumer than the terms of the agreement under which the consumer became indebted to the creditor.

(6) "Debt management service" means a service in which a provider obtains or seeks to obtain a concession from one or more creditors on behalf of a consumer[

~~the receiving of money from a consumer for the purpose of distributing that money to or among one or more of the creditors of the consumer in full or partial payment of the consumer's obligations;~~

~~[(B) arranging or assisting a consumer to arrange for the distribution of one or more payments to or among one or more creditors of the consumer in full or partial payment of the consumer's obligations; or~~

~~[(C) exercising control, directly or indirectly, or arranging for the exercise of control over funds of a consumer for the purpose of distributing payments to or among one or more creditors of the consumer in full or partial payment of the consumer's obligations].~~

(9-a) "Principal amount of the debt" means the amount of a debt owed by a consumer at the time the consumer enters into a debt management service agreement.

(10) "Provider" means a person that acts as an intermediary between a consumer and one or more creditors and that provides or offers to provide [to a consumer in this state] a debt management service to a consumer in this state.

(11-a) "Settlement fee" means a charge that is imposed on or paid by a consumer in connection with a debt management service agreement after a creditor agrees to accept in full satisfaction of a debt an amount that is less than the principal amount of the debt.

SECTION 2. Section 394.204(k), Finance Code, is amended to read as follows:

(k) In addition to the power to refuse an initial application as specified in this section, the commissioner may suspend or revoke a provider's registration after notice and hearing if the commissioner finds that any of the following conditions are met:

(1) a fact or condition exists that if it had existed when the provider applied for registration would have been grounds for denying registration;

(2) a fact or condition exists that the commissioner was not aware of when the provider applied for registration and would have been grounds for denying registration;

(3) the provider violates this subchapter or rule or order of the commissioner under this subchapter;

(4) the provider is insolvent;

(5) the provider refuses to permit the commissioner to make an examination authorized by this subchapter;

(6) the provider fails to respond within a reasonable time and in an appropriate manner to communications from the commissioner;

(7) the provider has received money from or on behalf of a consumer for disbursement to a creditor under a debt management plan that provides for regular periodic payments to creditors in full repayment of the principal amount of the debts and the provider has failed to disburse money to the creditor [~~creditors~~] on behalf of the consumer [~~consumers~~] within a reasonable time, normally 30 days;

(8) the commissioner determines that the provider's trust account is not materially in balance with and reconciled to the consumer's account; or

(9) the provider fails to warrant the belief that the business will be operated lawfully and fairly and within the provisions and purposes of this subchapter.

SECTION 3. Section 394.206(b), Finance Code, is amended to read as follows:

(b) The bond or insurance must:

(1) run concurrently with the period of registration;

(2) be available to pay damages and penalties to consumers directly harmed by a violation of this subchapter;

(3) be in favor of this state for the use of this state and the use of a person who has a cause of action under this subchapter against the provider;

(4) if a bond:

(A) be in an amount equal to the average daily balance of the provider's trust account serving Texas consumers over the six-month period preceding the issuance of the bond, or in the case of an initial application, in an amount determined by the commissioner, but not less than \$25,000 or more than \$100,000, if the provider receives and holds money paid by or on behalf of a consumer for disbursement to the consumer's creditors; or

(B) be in the amount of \$50,000, if the provider does not receive and hold money paid by or on behalf of a consumer for disbursement to the consumer's creditors;

(5) if an insurance policy:

(A) provide coverage for professional liability, employee dishonesty, depositor's forgery, and computer fraud in an amount not less than \$100,000;

(B) be issued by a company rated at least "A-" or its equivalent by a nationally recognized rating organization; and

(C) provide for 30 days advance written notice of termination of the policy to be provided to the commissioner;

(6) be issued by a bonding, surety, or insurance company that is authorized to do business in the state; and

(7) be conditioned on the provider and its agents complying with all state and federal laws, including regulations, governing the business of debt management services.

SECTION 4. Sections 394.208(a), (d), and (f), Finance Code, are amended to read as follows:

(a) A provider may not enroll a consumer in a debt management plan unless, through the services of a counselor certified by an independent accreditation organization, the provider ~~has~~:

(1) has provided the consumer individualized counseling and educational information that at a minimum addresses the topics of managing household finances, managing credit and debt, and budgeting;

(2) has prepared an individualized financial analysis and an initial debt management plan for the consumer's debts with specific recommendations regarding actions the consumer should take;

(3) has determined that the consumer has a reasonable ability to make payments under the proposed debt management plan based on the information provided by the consumer;

(4) if the proposed debt management plan does not provide for a reduction of principal as a concession:

(A) has a reasonable expectation, provided that the consumer has provided accurate information to the provider, that each creditor of the consumer listed as a participating creditor in the plan will accept payment of the consumer's debts as provided in the initial plan; and

(B) has [~~(5)~~] prepared, for all creditors identified by the consumer or identified through additional investigation by the provider, a list, which must be provided to the consumer in a form the consumer may keep, of the creditors that the provider reasonably expects to participate in the plan; and

(5) has [~~(6)~~] provided a written document to the consumer in a form the consumer may keep that clearly and conspicuously contains the following statements:

(A) that debt management services are not suitable for all consumers and that consumers may request information about other ways, including bankruptcy, to deal with indebtedness;

(B) that if the provider is a nonprofit or tax-exempt organization the provider cannot require donations or contributions; and

(C) if applicable, that some of the provider's funding comes from contributions from creditors who participate in debt management plans, except that a provider may substitute for "some" the actual percentage of creditor contributions it received during the most recent reporting period.

(d) A provider may provide the information required by Subsections (a)(2), (4)(B), and (5) [~~and (6)~~] through its Internet website if the provider:

(1) has complied with the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.);

(2) informs the consumer that, on electronic, telephonic, or written request the provider will make available to the consumer a paper copy or copies; and

- (3) discloses on its Internet website:
 - (A) the provider's name and each name under which it does business;
 - (B) the provider's principal business address and telephone number;

and

- (C) the names of the provider's principal officers.

(f) A provider who receives and disburses money to creditors on behalf of consumers for debt management services shall provide each consumer to ~~for~~ whom those services were provided ~~[it provides debt management services]~~ a written report accounting for:

- (1) the amount of money received from the consumer since the last report;
- (2) the amount and date of each disbursement made on the consumer's behalf to each creditor listed in the agreement since the last report;
- (3) any amount deducted from amounts received from the consumer; and
- (4) any amount held in reserve.

SECTION 5. Section 394.209(b), Finance Code, is amended to read as follows:

(b) Each debt management services agreement must:

- (1) be dated and signed by the consumer;
- (2) include the name and address of the consumer and the name, address, and telephone number of the provider;
- (3) describe the services to be provided;
- (4) state all fees, individually itemized, to be paid by the consumer;
- (5) if the proposed debt management plan does not provide for a reduction of principal as a concession, list in the agreement or accompanying document, to the extent the information is available to the provider at the time the agreement is executed, each participating creditor of the consumer to which payments will be made and, based on information provided by the consumer, the amount owed to each creditor and the schedule of payments the consumer will be required to make to the creditor, including the amount and date on which each payment will be due;
- (6) state the existence of a surety bond or insurance for consumer claims;
- (7) state that establishment of a debt management plan may impact the consumer's credit rating and credit score either favorably or unfavorably, depending on creditor policies and the consumer's payment history before and during participation in the debt management plan; and
- (8) state that either party may cancel the agreement without penalty at any time on 10 days' notice and that a consumer who cancels an agreement is entitled to a refund of all money that the consumer has paid to the provider that has not been disbursed.

SECTION 6. Subchapter C, Chapter 394, Finance Code, is amended by adding Section 394.2095 to read as follows:

Sec. 394.2095. CANCELLATION OF AGREEMENT BY EITHER PROVIDER OR CONSUMER. If a provider or a consumer cancels a debt management service agreement, the provider shall immediately return to the consumer:

- (1) any money of the consumer held in trust by the provider for the consumer's benefit; and

(2) 65 percent of any portion of the account set-up fee received under Section 394.210(g)(1) that has not been credited against settlement fees.

SECTION 7. Section 394.210, Finance Code, is amended by amending Subsections (c) through (f) and adding Subsections (g) through (n) to read as follows:

(c) A provider may not impose fees or other charges on a consumer or receive payment for debt management services until the consumer has entered into a debt management service agreement with the provider that complies with Section 394.209.

(d) If a consumer enters into a debt management service agreement with a provider, the provider may not impose a fee or other charge for debt counseling, education services, or similar services except as otherwise authorized by this section. The commissioner may authorize a provider to charge a fee based on the nature and extent of the counseling, education services, or other similar services furnished by the provider.

(e) Subsections (f)-(j) apply subject to an adjustment made under Section 394.2101.

(f) If a consumer is enrolled in a debt management plan that provides for a reduction of finance charges or fees for late payment, default, or delinquency as a concession from creditors, the provider may charge:

(1) a fee not to exceed \$100 for debt consultation or education services, including obtaining a credit report, setting up an account, and other similar services; and

(2) a monthly service fee, not to exceed the lesser of:

(A) \$10 multiplied by the number of accounts remaining in the plan on the day of the month the fee is assessed; or

(B) \$50.

(g) If a consumer is enrolled in a debt management plan that provides for settlement of debts for amounts that are less than the principal amounts of the debts as a concession from creditors, the provider may charge:

(1) a fee for debt consultation or education services, including obtaining a credit report, setting up an account, and other similar services, in an amount not to exceed the lesser of \$400 or four percent of the total amount of the outstanding debt included in the plan at the time the plan is established; and

(2) a monthly service fee, not to exceed the lesser of:

(A) \$10 multiplied by the number of accounts remaining in the plan on the day of the month the fee is assessed; or

(B) \$50; and

(3) one of the following:

(A) with respect to a debt management service agreement in which a flat fee is charged based on the total amount of debt that is included in a debt management plan, the total aggregate amount of fees charged to a consumer under this subchapter, including fees charged under Subdivisions (1) and (2), may not exceed 17 percent of the total principal amount of debt included in the debt management plan; or

(B) with respect to a debt management service agreement in which fees are computed as a percentage of the amount saved by a consumer as a result of a concession, in addition to fees charged under Subdivisions (1) and (2), a settlement fee may not exceed 30 percent of the excess of the outstanding amount of each debt over the amount actually paid to the creditor, as computed at the time of settlement.

(h) Settlement fees authorized under Subsection (g) may be charged only as debts are settled, and the total aggregate amount of fees charged to a consumer under this subchapter, including fees charged under Subsections (g)(1) and (2), may not exceed 20 percent of the principal amount of debt included in the debt management plan.

(i) The flat fee authorized under this subchapter shall be assessed in equal monthly payments for a period that is at least as long as the term of the debt management plan, as estimated when the debt management plan is established, unless:

(1) the fee payment period is voluntarily accelerated by the consumer in an addendum to the agreement or other separate agreement; and

(2) offers of settlement by creditors have been obtained on at least half of the outstanding debt included in the debt management plan.

(j) If a consumer is enrolled in a debt management plan that provides for the settlement of debts for amounts that are less than the principal amount of the debts as a concession from creditors, if fees for debt management services will not be charged or collected until the time a settlement agreement is reached with a creditor, and if at least one payment has been made toward the settlement agreement by or on behalf of the consumer, the fee limitations in Subsection (g) do not apply and the provider may charge reasonable settlement fees. The fee with respect to each debt included in the plan must:

(1) bear the same proportional relationship to the total fee for settling all debts included in the debt management plan as the principal amount of the particular debt bears to the total principal amount of the debt included in the plan; or

(2) be a percentage of the amount saved as a result of the settlement, determined as the difference between the principal amount of a debt and the amount actually paid to satisfy the debt. The percentage charged cannot change from one debt to another.

(k) A provider may impose fees or other charges or receive fees or payment under only one of Subsection (f), (g), or (j).

(l) If a consumer does not enter into a debt management service agreement with a provider, the provider may receive payment for debt counseling or education services provided to the consumer in an amount not to exceed \$100 or a greater amount, on approval of the commissioner. The commissioner may approve a fee in an amount greater than \$100 if the nature and extent of the educational and counseling services warrant the greater amount.

(m) If, before the expiration of the 90th day after the date debt counseling or education services are completed or canceled, a consumer enters into a debt management service agreement with a provider, the provider shall refund to the consumer any payments received under Subsection (l).

(n) Subject to an adjustment made under Section 394.2101, if any payment made by a consumer to a provider under this subchapter is dishonored, the provider may impose a reasonable charge on the consumer not to exceed the lesser of \$25 or an amount permitted by a law other than this chapter [Any fee charged by a provider must be fair and reasonable given the value of the products and services provided to the consumer, including consideration of the amount subject to debt management and the number of anticipated payments. A fee or a portion of a fee that is specifically related to a debt management plan may not be charged until the provider has complied with Sections 394.208(a) and (b) and 394.209.

~~[(d) A provider may charge a monthly maintenance fee if the fee is fair and reasonable.~~

~~[(e) A fee charged for a service other than a debt management service must be fair and reasonable.~~

~~[(f) The finance commission may establish maximum fair and reasonable fees under this section].~~

SECTION 8. Subchapter C, Chapter 394, Finance Code, is amended by adding Section 394.2101 to read as follows:

Sec. 394.2101. ADJUSTMENT OF AMOUNTS OF FEES OR OTHER CHARGES. (a) The commissioner shall compute and publish the dollar amounts of fees or other charges in amounts different from the amounts of fees or other charges specified in Section 394.210 to reflect inflation, as measured by the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor or, if that index is not available, another index adopted by finance commission rule. The commissioner shall adopt a base year and adjust the dollar amounts, effective on July 1 of each year, if the change in the index from the base year, as of December 31 of the preceding year, is at least 10 percent. The dollar amounts must be rounded to the nearest \$100, except that the amounts of the fees and other charges specified in Section 394.210 must be rounded to the nearest dollar.

(b) The commissioner shall notify registered providers of any change in dollar amounts made under Subsection (a) and make that information available to the public.

SECTION 9. Section 394.211(a), Finance Code, is amended to read as follows:

(a) A provider must use a trust account for the management of all money paid by or on behalf of a consumer and received by the provider for disbursement to the consumer's creditor. A provider may not commingle the money in a trust account established for the benefit of consumers with any operating funds of the provider. A provider shall exercise due care to appropriately manage the funds in the trust account.

SECTION 10. Section 394.213, Finance Code, is amended to read as follows:

Sec. 394.213. DUTIES OF PROPER MANAGEMENT. A provider has a duty to a consumer who receives debt management services from the provider to ensure that client money held by the provider is managed properly at all times.

SECTION 11. This Act takes effect September 1, 2011.

Floor Amendment No. 1

Amend **CSSB 141** (house committee printing) in added Section 394.210(h), Finance Code (page 11, line 6), by striking "Subsection (g)" and substituting "Subsection (g)(3)(B)".

The amendments were read.

Senator Eltife moved to concur in the House amendments to **SB 141**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

SENATE BILL 61 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 61** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 61** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to juvenile case managers.

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

SECTION 1. The heading to Article 45.056, Code of Criminal Procedure, is amended to read as follows:

Art. 45.056. [~~AUTHORITY TO EMPLOY~~] JUVENILE CASE MANAGERS[; ~~REIMBURSEMENT~~].

SECTION 2. Article 45.056, Code of Criminal Procedure, is amended by amending Subsection (d) and adding Subsections (f), (g), and (h) to read as follows:

(d) Pursuant to Article 102.0174, the court or governing body may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the juvenile case manager fund.

(f) The governing body of the employing governmental entity under Subsection (a) shall adopt reasonable rules for juvenile case managers that provide:

(1) a code of ethics, and for the enforcement of the code of ethics;

(2) appropriate educational preservice and in-service training standards for juvenile case managers; and

(3) training in:

(A) the role of the juvenile case manager;

(B) case planning and management;

(C) applicable procedural and substantive law;

(D) courtroom proceedings and presentation;

(E) services to at-risk youth under Subchapter D, Chapter 264, Family

Code;

(F) local programs and services for juveniles and methods by which juveniles may access those programs and services; and

(G) detecting and preventing abuse, exploitation, and neglect of juveniles.

(g) The employing court or governmental entity under this article shall implement the rules adopted under Subsection (f).

(h) The commissioners court or governing body of the municipality that administers a juvenile case manager fund under Article 102.0174 shall require periodic review of juvenile case managers to ensure the implementation of the rules adopted under Subsection (f).

SECTION 3. Article 102.0174(g), Code of Criminal Procedure, is amended to read as follows:

(g) A fund created under this section may be used only to finance the salary, ~~and~~ benefits, training, travel expenses, office supplies, and other necessary expenses relating to the position of a juvenile case manager employed under Article 45.056. The fund may not be used to supplement the income of an employee whose primary role is not that of a juvenile case manager.

SECTION 4. Not later than December 1, 2011, the governing body of a governmental entity that employs a juvenile case manager under Article 45.056, Code of Criminal Procedure, as amended by this Act, shall adopt the rules required by that article.

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, 2011.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 61**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

SENATE BILL 116 WITH HOUSE AMENDMENT

Senator Uresti called **SB 116** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 116** (house committee printing) as follows:

(1) In SECTION 2 of the bill, strike amended Section 71.0021(a), Family Code (page 1, lines 8-17), and substitute the following:

(a) "Dating violence" means an act, other than a defensive measure to protect oneself, by an actor ~~[individual]~~ that:

(1) is committed against a victim:

(A) ~~[another individual]~~ with whom the actor ~~[that person]~~ has or has had a dating relationship; or

(B) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and

(2) ~~[that]~~ is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim [individual] in fear of imminent physical harm, bodily injury, assault, or sexual assault [~~,-but does not include defensive measures to protect oneself].~~

(2) Add the following appropriately numbered SECTION to the bill and renumber the SECTIONS of the bill appropriately:

SECTION _____. Section 82.002(b), Family Code, is amended to read as follows:

(b) With regard to family violence under Section 71.004(3), an application for a protective order to protect the applicant may be filed by:

(1) an adult member of the dating relationship; or

(2) an adult member of the marriage, if the victim is or was married as described by Section 71.0021(a)(1)(B).

(3) In SECTION 3 of the bill (page 1, lines 18-19), strike "Section 71.0021," and substitute "Sections 71.0021 and 82.002,".

The amendment was read.

Senator Uresti moved to concur in the House amendment to **SB 116**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

SENATE BILL 690 WITH HOUSE AMENDMENT

Senator Carona called **SB 690** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 690** (house committee printing) in SECTION 2 of the bill by striking proposed Subsection (a), Section 59.003, Property Code (page 1, lines 17 and 18), and substituting the following:

(a) The following provisions do [~~Subchapter B, Chapter 54, does~~] not apply to a self-service storage facility:

(1) Subchapter B, Chapter 54;

(2) Chapter 70; and

(3) Chapter 181, Health and Safety Code.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 690**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

SENATE BILL 544 WITH HOUSE AMENDMENT

Senator Seliger called **SB 544** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 544** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to unlawful acts against and criminal offenses involving the Medicaid program; providing penalties.

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

SECTION 1. Section 36.001, Human Resources Code, is amended by adding Subdivisions (5-a) and (7-a) to read as follows:

(5-a) "Material" means having a natural tendency to influence or to be capable of influencing.

(7-a) "Obligation" means a duty, whether or not fixed, that arises from:

(A) an express or implied contractual, grantor-grantee, or licensor-licensee relationship;

(B) a fee-based or similar relationship;

(C) a statute or regulation; or

(D) the retention of any overpayment.

SECTION 2. Section 36.002, Human Resources Code, is amended to read as follows:

Sec. 36.002. UNLAWFUL ACTS. A person commits an unlawful act if the person:

(1) knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

(2) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

(3) knowingly applies for and receives a benefit or payment on behalf of another person under the Medicaid program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received;

(4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning:

(A) the conditions or operation of a facility in order that the facility may qualify for certification or recertification required by the Medicaid program, including certification or recertification as:

(i) a hospital;

(ii) a nursing facility or skilled nursing facility;

(iii) a hospice;

(iv) an intermediate care facility for the mentally retarded;

(v) an assisted living facility; or

(vi) a home health agency; or

(B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to the Medicaid program;

(5) except as authorized under the Medicaid program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the Medicaid program, a gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the Medicaid program;

(6) knowingly presents or causes to be presented a claim for payment under the Medicaid program for a product provided or a service rendered by a person who:

(A) is not licensed to provide the product or render the service, if a license is required; or

(B) is not licensed in the manner claimed;

(7) knowingly makes or causes to be made a claim under the Medicaid program for:

(A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner;

(B) a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or

(C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;

(8) makes a claim under the Medicaid program and knowingly fails to indicate the type of license and the identification number of the licensed health care provider who actually provided the service;

(9) knowingly enters into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another person in obtaining an unauthorized payment or benefit from the Medicaid program or a fiscal agent;

(10) is a managed care organization that contracts with the Health and Human Services Commission or other state agency to provide or arrange to provide health care benefits or services to individuals eligible under the Medicaid program and knowingly:

(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract;

(B) fails to provide to the commission or appropriate state agency information required to be provided by law, commission or agency rule, or contractual provision; or

(C) engages in a fraudulent activity in connection with the enrollment of an individual eligible under the Medicaid program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under the Medicaid program;

(11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section;

(12) knowingly makes, uses, or causes the making or use of a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to this state under the Medicaid program; or

(13) knowingly engages in conduct that constitutes a violation under Section 32.039(b).

SECTION 3. Section 36.052(a), Human Resources Code, is amended to read as follows:

(a) Except as provided by Subsection (c), a person who commits an unlawful act is liable to the state for:

(1) the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the unlawful act, including any payment made to a third party;

(2) interest on the amount of the payment or the value of the benefit described by Subdivision (1) at the prejudgment interest rate in effect on the day the payment or benefit was received or paid, for the period from the date the benefit was received or paid to the date that the state recovers the amount of the payment or value of the benefit;

(3) a civil penalty of:

(A) not less than \$5,500 or the minimum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds \$5,500, and not ~~[\$5,000 or]~~ more than \$15,000 or the maximum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds \$15,000, for each unlawful act committed by the person that results in injury to an elderly person, as defined by Section 48.002(a)(1), a disabled person, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age; or

(B) not less than \$5,500 or the minimum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds \$5,500, and not ~~[\$5,000 or]~~ more than \$11,000 or the maximum amount imposed as provided by 31 U.S.C. Section 3729(a), if that amount exceeds \$11,000, ~~[\$10,000]~~ for each unlawful act committed by the person that does not result in injury to a person described by Paragraph (A); and

(4) two times the amount of the payment or the value of the benefit described by Subdivision (1).

SECTION 4. Section 36.110(c), Human Resources Code, is amended to read as follows:

(c) A payment to a person under this section shall be made from the proceeds of the action. A person receiving a payment under this section is also entitled to receive from the defendant an amount for reasonable expenses, reasonable attorney's fees, and costs that the court finds to have been necessarily incurred. The court's determination of expenses, fees, and costs to be awarded under this subsection shall be made only after the defendant has been found liable in the action or the state settles an action with a defendant that the court determined, after a hearing, was fair, adequate, and reasonable in accordance with Section 36.107(c).

SECTION 5. Section 36.113, Human Resources Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A person may not bring an action under this subchapter that is based on the public disclosure of allegations or transactions in a criminal or civil hearing in which the state or an agent of the state is a party, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, unless the person bringing the action is an original source of the information. In this subsection, "original source" means an individual who:

(1) has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the state before filing an action under this subchapter that is based on the information; or

(2) has knowledge that is independent of and materially adds to the publicly disclosed allegations and who has voluntarily provided the information to the state before filing an action under this subchapter that is based on the information.

(c) Before dismissing an action as barred under this section, the court shall give the attorney general an opportunity to oppose the dismissal.

SECTION 6. The heading to Section 36.115, Human Resources Code, is amended to read as follows:

Sec. 36.115. RETALIATION [~~BY EMPLOYER~~] AGAINST PERSON [~~BRINGING SUIT~~] PROHIBITED.

SECTION 7. Section 36.115(a), Human Resources Code, is amended to read as follows:

(a) A person, including an employee, contractor, or agent, who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment [~~by the person's employer~~] because of a lawful act taken by the person in furtherance of an action under this subchapter, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this subchapter, or other efforts taken by the person to stop one or more violations of Section 36.002 is entitled to:

(1) reinstatement with the same seniority status the person would have had but for the discrimination; and

(2) not less than two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

SECTION 8. Section 35A.02(a), Penal Code, is amended to read as follows:

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

(1) knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

(2) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;

(3) knowingly applies for and receives a benefit or payment on behalf of another person under the Medicaid program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received;

(4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning:

(A) the conditions or operation of a facility in order that the facility may qualify for certification or recertification required by the Medicaid program, including certification or recertification as:

(i) a hospital;

(ii) a nursing facility or skilled nursing facility;

- (iii) a hospice;
- (iv) an intermediate care facility for the mentally retarded;
- (v) an assisted living facility; or
- (vi) a home health agency; or

(B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to the Medicaid program;

(5) except as authorized under the Medicaid program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the Medicaid program, a gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the Medicaid program;

(6) knowingly presents or causes to be presented a claim for payment under the Medicaid program for a product provided or a service rendered by a person who:

(A) is not licensed to provide the product or render the service, if a license is required; or

(B) is not licensed in the manner claimed;

(7) knowingly makes or causes to be made a claim under the Medicaid program for:

(A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner;

(B) a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or

(C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;

(8) makes a claim under the Medicaid program and knowingly fails to indicate the type of license and the identification number of the licensed health care provider who actually provided the service;

(9) knowingly enters into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another person in obtaining an unauthorized payment or benefit from the Medicaid program or a fiscal agent;

(10) is a managed care organization that contracts with the Health and Human Services Commission or other state agency to provide or arrange to provide health care benefits or services to individuals eligible under the Medicaid program and knowingly:

(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract;

(B) fails to provide to the commission or appropriate state agency information required to be provided by law, commission or agency rule, or contractual provision; or

(C) engages in a fraudulent activity in connection with the enrollment of an individual eligible under the Medicaid program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under the Medicaid program;

(11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section or under Section 32.039, 32.0391, or 36.002, Human Resources Code; or

(12) knowingly makes, uses, or causes the making or use of a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to this state under the Medicaid program.

SECTION 9. (a) The changes in law made by this Act to Section 36.002, Human Resources Code, and Section 35A.02, Penal Code, 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.

(b) For purposes of this section, conduct constituting an offense under the penal law of this state occurred before the effective date of this Act if any element of the offense occurred before that date.

SECTION 10. The changes in law made by this Act to Sections 36.052, 36.110, and 36.113, Human Resources Code, apply only to a civil action for a violation of Section 36.002, Human Resources Code, as amended by this Act, commenced on or after the effective date of this Act. A civil action commenced before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 11. This Act takes effect September 1, 2011.

The amendment was read.

Senator Seliger moved to concur in the House amendment to **SB 544**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

SENATE BILL 639 WITH HOUSE AMENDMENT

Senator Van de Putte called **SB 639** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 639** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to tuition and fee exemptions at public institutions of higher education for certain military personnel, veterans, and dependents residing in this state.

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

SECTION 1. Section 54.203, Education Code, is amended by amending Subsections (a), (d), (k), (l), and (m) and adding Subsections (a-3), (k-1), and (n) to read as follows:

(a) The governing board of each institution of higher education shall exempt the following persons from the payment of tuition, dues, fees, and other required charges, including fees for correspondence courses but excluding general deposit fees, student services fees, and any fees or charges for lodging, board, or clothing, provided the

person seeking the exemption currently resides in this state and entered the service at a location in this state, declared this state as the person's home of record in the manner provided by the applicable military or other service, or would have been determined to be a resident of this state for purposes of Subchapter B at the time the person entered the service:

(1) all nurses and honorably discharged members of the armed forces of the United States who served during the Spanish-American War or during World War I;

(2) all nurses, members of the Women's Army Auxiliary Corps, members of the Women's Auxiliary Volunteer Emergency Service, and all honorably discharged members of the armed forces of the United States who served during World War II except those who were discharged from service because they were over the age of 38 or because of a personal request on the part of the person that the person be discharged from service;

(3) all honorably discharged men and women of the armed forces of the United States who served during the national emergency which began on June 27, 1950, and which is referred to as the Korean War; and

(4) all persons who were honorably discharged from the armed forces of the United States after serving on active military duty, excluding training, for more than 180 days and who served a portion of their active duty during:

(A) the Cold War which began on the date of the termination of the national emergency cited in Subdivision (3);

(B) the Vietnam era which began on December 21, 1961, and ended on May 7, 1975;

(C) the Grenada and Lebanon era which began on August 24, 1982, and ended on July 31, 1984;

(D) the Panama era which began on December 20, 1989, and ended on January 21, 1990;

(E) the Persian Gulf War which began on August 2, 1990, and ends on the date thereafter prescribed by Presidential proclamation or September 1, 1997, whichever occurs first;

(F) the national emergency by reason of certain terrorist attacks that began on September 11, 2001; or

(G) any future national emergency declared in accordance with federal law.

(a-3) A person who before the 2011-2012 academic year received an exemption provided by Subsection (a) continues to be eligible for the exemption provided by that subsection as that subsection existed on January 1, 2011, subject to the other provisions of this section other than the requirement of Subsection (a) that the person must currently reside in this state.

(d) The governing board of each institution of higher education granting an exemption under this section shall require each ~~every~~ applicant claiming the exemption to submit to the institution an application for the exemption and satisfactory evidence that the applicant qualifies for the exemption not later than one year after the earlier of the date the institution:

(1) provides written notice to the applicant of the applicant's eligibility for the exemption; or

(2) receives a written acknowledgement from the applicant evidencing the applicant's awareness of the applicant's eligibility for the exemption.

(k) The Texas Higher Education Coordinating Board by rule shall prescribe procedures to allow:

(1) a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the maximum number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person; and

(2) following the death of a person who becomes eligible for an exemption provided by Subsection (a), the assignment of the exemption for the unused portion of the credit hours to a child of the person, to be made by the person's spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child does not otherwise qualify for an exemption under Subsection (b).

(k-1) The procedures under Subsection (k) must ~~shall~~ provide:

(1) the manner in which a person may waive the exemption;

(2) the manner in which ~~and designate~~ a child may be designated to receive the exemption;

(3) ~~(2)~~ a procedure permitting the designation of ~~[person to designate]~~ a different child to receive the exemption if the child previously designated to receive the exemption did not use the exemption under this section for all of the assigned portion of credit hours; and

(4) ~~(3)~~ a method of documentation to enable institutions of higher education to determine the eligibility of the designated child to receive the exemption.

(l) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education; and

(2) make satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the policy of the institution's financial aid department, except that the institution may not require the child to enroll in a minimum course load~~;~~ and

~~[(3) be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed, except that the Texas Higher Education Coordinating Board by rule shall prescribe procedures by which a child who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching that age may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition].~~

(m) For purposes of this section, a person is the child of another person if the person is 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed and:

(1) the person is the stepchild or the biological or adopted child of the other person; or

(2) the other person claimed the person as a dependent on a federal income tax return filed for the preceding year or will claim the person as a dependent on a federal income tax return for the current year.

(n) The Texas Higher Education Coordinating Board by rule shall prescribe procedures by which a child who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching the age described by Subsection (m) may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

SECTION 2. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.2031 to read as follows:

Sec. 54.2031. DEPENDENT CHILDREN OF RESIDENTS WHO ARE MEMBERS OF ARMED FORCES DEPLOYED ON COMBAT DUTY. (a) In this section:

(1) "Child" includes a stepchild or adopted child.

(2) "Dependent" means a person who:

(A) is claimed as a dependent on a federal income tax return filed for the preceding year; or

(B) will be claimed as a dependent on a federal income tax return filed for the current year.

(b) The governing board of an institution of higher education shall exempt from the payment of tuition at the institution a dependent child of a member of the armed forces of the United States who is a resident of this state or is entitled to pay resident tuition under this chapter, for any semester or other academic term during which the member of the armed forces is deployed on active duty for the purpose of engaging in a combative military operation outside the United States.

(c) The governing board of an institution of higher education granting an exemption under this section shall require each applicant claiming the exemption to submit satisfactory evidence that the applicant qualifies for the exemption.

(d) A person may not receive an exemption provided for by this section for more than a cumulative total of 150 semester credit hours.

(e) A person may not receive an exemption under this section if the person is in default on a loan made or guaranteed for educational purposes by the State of Texas.

(f) In determining whether to admit a person to any certificate program or any baccalaureate, graduate, postgraduate, or professional degree program, an institution of higher education may not consider the fact that the person is eligible for an exemption under this section.

(g) In its appropriations to institutions of higher education, the legislature shall, based on availability, provide sufficient money to cover the full costs of the exemptions provided for by this section.

(h) If sufficient money is not available to cover the full costs to the institutions of higher education of the exemptions provided for by this section, the Texas Higher Education Coordinating Board shall prorate the available funding to each institution for purposes of this section in proportion to the total amount the institution would

otherwise be entitled to receive for purposes of this section. An institution is required to grant an exemption from the payment of tuition under this section only to the extent money is available for that purpose.

(i) The Texas Higher Education Coordinating Board may adopt rules necessary to administer this section.

SECTION 3. Section 54.203(b-2), Education Code, is repealed.

SECTION 4. The change in law made by this Act applies beginning with tuition and fees for the 2011 fall semester. Tuition and fees for a term or semester before the 2011 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

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, 2011.

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 639**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

SENATE BILL 1431 WITH HOUSE AMENDMENT

Senator Carona called **SB 1431** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 on Third Reading

Amend **SB 1431** on third reading by striking all below the enacting clause and substituting the following:

SECTION 1. Section 823.002, Insurance Code, is amended by adding Subdivisions (3-a), (3-b), and (4-a) and amending Subdivision (6) to read as follows:

(3-a) "Divesting person" means a person who has control of a domestic insurer and who intends to divest control of the domestic insurer.

(3-b) "Divestiture" means an abandonment of control of a domestic insurer by a divesting person that does not result in the transfer of control to another person.

(4-a) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything:

(A) that would cause the insurer's risk-based capital to fall into company action level; or

(B) that would cause the insurer to be in hazardous financial condition.

(6) "Insurer" means any insurance company organized under the laws of this state, a commercially domiciled insurer, or an insurer authorized to engage in the business of insurance in this state. The term includes a capital stock company, mutual company, farm mutual insurance company, title insurance company, fraternal benefit society, local mutual aid association, statewide mutual assessment company, county

mutual insurance company, Lloyd's plan, reciprocal or interinsurance exchange, stipulated premium insurance company, and group hospital service corporation. The term does not include an agency, authority, or instrumentality of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state~~[, or an agency, authority, instrumentality,]~~ or political subdivision of a state.

SECTION 2. Section 823.010, Insurance Code, is amended by amending Subsections (c) and (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(c) Except as provided by Subsection (d), [After] the disclaimer shall be deemed to have been allowed unless, not later than 60 days after the receipt of a complete disclaimer, [is filed:

~~[(1) the insurer is not required to register or report under Subchapter B because of a duty that arises out of the insurer's relationship with the person unless] the commissioner notifies the filing party that [disallows] the disclaimer is disallowed~~~~[, in which event the duty to register or report begins on the date of the disallowance; and~~

~~[(2) the person is not required to comply with Sections 823.154, 823.155, 823.159, and 823.160 unless the commissioner disallows the disclaimer].~~

(d) Notwithstanding Subsection (c), if the commissioner at any time determines that the information disclosed in the disclaimer is incomplete or inaccurate or is no longer accurate, the [The] commissioner may disallow the disclaimer [only after:

~~[(1) providing to each party in interest notice of and the opportunity to be heard on the disallowance; and~~

~~[(2) making specific findings of fact to support the disallowance].~~

(e) If the commissioner disallows a disclaimer, the party who filed the disclaimer may request an administrative hearing. The commissioner shall grant the request for the hearing.

(f) Except as provided by Subsection (h), if the commissioner allows a disclaimer:

(1) the insurer is not required to register or report under Subchapter B due to a duty arising from the insurer's relationship with the party who filed the disclaimer; and

(2) the party who filed the disclaimer is not required to comply with Section 823.154, 823.155, 823.159, or 823.160.

(g) If the commissioner allows a disclaimer, the commissioner at the same time may also waive another provision of this chapter with relation to the party who filed the disclaimer. The commissioner may require reasonable controls and safeguards that are consistent with the purposes of this chapter in granting a waiver under this subsection.

(h) If the commissioner disallows a disclaimer under Subsection (d):

(1) effective on the date of the disallowance, the insurer shall register and report as required by Subchapter B; and

(2) the party who filed the disclaimer shall comply with Sections 823.154, 823.155, 823.159, and 823.160.

SECTION 3. Section 823.011, Insurance Code, is amended by amending Subsections (a), (b) and (d) and adding Subsections (e), (f), (g), (h), and (i) to read as follows:

(a) This section applies only to information, including documents and copies of documents, that is:

- (1) reported under Subchapter B; ~~or~~
- (2) disclosed to the commissioner under Section 823.010; or
- (3) obtained by or disclosed to the commissioner or another person in the course of an examination or investigation under Subchapter H.

(b) The information shall be confidential and privileged for all purposes ~~[treated confidentially and is not subject to subpoena]~~. Except as provided by Subsections (c) and (d), the information may not be disclosed without the prior written consent of the insurer to which it pertains.

(d) Except as provided by Subsection (e), if the recipient of documents or other information agrees in writing to maintain the confidential and privileged status of the documents or other information, and verifies in writing the legal authority to maintain the confidential and privileged status of the documents or information, the ~~[The]~~ commissioner or another person may disclose the information to any of the following entities functioning in an official capacity:

- (1) a commissioner of insurance or an insurance department of another state;
- (2) an authorized law enforcement official;
- (3) a district attorney of this state;
- (4) the attorney general; ~~or~~
- (5) a grand jury;
- (6) members of a supervisory college described by Section 823.0145; or
- (7) the National Association of Insurance Commissioners and its affiliates and subsidiaries.

(e) Notwithstanding Subsection (d), the commissioner may share confidential and privileged information reported under Section 823.0595 only with the commissioner of insurance of a state that has a statute or rule substantially similar to Subsection (d) who agrees in writing not to disclose the information.

(f) Information described by Subsection (a), including information in the possession of the National Association of Insurance Commissioners under this section, is confidential and privileged for all purposes, including for purposes of:

- (1) Chapter 552, Government Code;
- (2) a response to a subpoena; or
- (3) discovery or admissibility in evidence in a civil action.

(g) The commissioner shall enter into written agreements with the National Association of Insurance Commissioners that comply with the requirements of Subsection (d) regarding the sharing and use of information provided under this chapter. An agreement entered into under this subsection must:

(1) specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries under this chapter, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal, or international regulators;

(2) specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries under this chapter remains with the commissioner, and that use of the information by the National Association of Insurance Commissioners is subject to the direction of the commissioner;

(3) require prompt notice to an insurer whose confidential information is in the possession of the National Association of Insurance Commissioners under this chapter that the information is subject to a request or subpoena to the National Association of Insurance Commissioners for disclosure or production; and

(4) require the National Association of Insurance Commissioners and its affiliates and subsidiaries to give consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries under this chapter.

(h) This section may not be construed to prevent the commissioner from using information described by Subsection (a) for any purpose with respect to which the commissioner or the attorney general is otherwise authorized to act, including a regulatory or other legal action.

(i) The commissioner remains solely responsible for the administration, execution, and enforcement of this chapter, and the commissioner's sharing of information does not constitute a delegation of regulatory or rulemaking authority.

SECTION 4. Subchapter A, Chapter 823, Insurance Code, is amended by adding Section 823.0145 to read as follows:

Sec. 823.0145. SUPERVISORY COLLEGES. (a) With respect to any insurer registered under Subchapter B, and in accordance with Subsection (c), the commissioner may participate in a supervisory college for a domestic insurer that is part of an insurance holding company system with international operations in order to determine the insurer's compliance with this chapter. The commissioner may:

(1) initiate the establishment of a supervisory college;

(2) clarify the membership and participation of other entities in the supervisory college;

(3) clarify the functions of the supervisory college and the role of other entities in the supervisory college;

(4) establish a group-wide supervisor;

(5) coordinate the ongoing activities of the supervisory college, including meetings, regulatory activities, and processes for information sharing; and

(6) establish a crisis management plan.

(b) In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers under Subchapter H, the commissioner

may participate in a supervisory college with other entities that regulate the insurer or its affiliates, including other state, federal, and international regulatory entities. The commissioner may enter into agreements under Section 823.011 to cooperate with other regulatory entities. Nothing in this section shall be construed as delegating to the supervisory college the commissioner's authority to regulate the insurer or its affiliates.

(c) A registered insurer subject to this section shall pay the reasonable expenses, including reasonable travel expenses, of the commissioner's participation in a supervisory college under Subsection (b). For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the entities that regulate the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of expenses related to the regulation of the insurer.

SECTION 5. Section 823.052, Insurance Code, is amended by amending Subsections (b) and (c) and adding Subsections (c-1) and (c-2) to read as follows:

(b) The registration statement must be in a format prescribed by the National Association of Insurance Commissioners or adopted by rule of the commissioner and contain current information about:

(1) the identity and relationship of each affiliate in the insurance holding company system of which the insurer is a part;

(2) the capital structure, general financial condition, and ownership and management of the insurer, the insurer's holding company, the insurer's subsidiaries, and, if the commissioner considers the information necessary, any of the insurer's other affiliates; and

(3) any pledge of stock of the insurer or a subsidiary or controlling affiliate of the insurer for a loan made to a member of the insurer's insurance holding company system.

(c) The registration statement must also contain information about:

(1) each outstanding loan the insurer makes to an affiliate of the insurer or an affiliate makes to the insurer;

(2) each purchase, sale, or exchange of securities or other investment between the insurer and an affiliate of the insurer;

(3) each purchase, sale, or exchange of assets between the insurer and an affiliate of the insurer;

(4) each management and service contract or cost-sharing arrangement between the insurer and an affiliate of the insurer;

(5) each reinsurance agreement between the insurer and an affiliate of the insurer that covers one or more lines of insurance of the ceding company;

(6) each agreement between the insurer and an affiliate of the insurer to consolidate federal income tax returns;

(7) each transaction between the insurer and an affiliated financial institution;

(8) each transaction between the insurer and an affiliate of the insurer that is not in the ordinary course of business;

(9) each guarantee or undertaking, other than an insurance contract entered into in the ordinary course of the insurer's business, for the benefit of an affiliate of the insurer that results in a contingent exposure of the insurer's assets to liability;

(10) each dividend or distribution to the insurer's shareholders; ~~and~~

(11) each transaction between the insurer and an affiliate of the insurer not specified by this subsection that is subject to Section 823.102, 823.103, or 823.104;

(12) the corporate governance and internal control responsibilities of the insurer's board of directors, including a statement that:

(A) the insurer's senior management or officers have approved and implemented, and continue to maintain and monitor, corporate governance and internal control procedures; and

(B) the insurer's board of directors oversees corporate governance and internal controls; and

(13) any other information that the commissioner requires by rule.

(c-1) On request of the commissioner, an insurer shall include with the statement a copy of all financial statements for the insurance holding company system and all affiliates of the holding company system, including annual audited financial statements filed with the United States Securities and Exchange Commission pursuant to the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.). An insurer may not be required to submit financial statements for an affiliate that is privately owned by not more than five security holders, each of whom is an individual, unless the commissioner determines that the operations of the affiliate may materially affect the operations, management, or financial condition of an insurer in a holding company system. An affiliate may seek judicial review of a request for financial statements under this subsection.

(c-2) An insurer required by the commissioner to submit financial statements under this section, Section 823.201, or Section 823.351 may satisfy the requirement by submitting to the commissioner:

(1) the financial statements that the insurer's parent corporation most recently filed with the Securities and Exchange Commission; and

(2) if the insurer is required to submit financial statements for an affiliate, the financial statements that the affiliate most recently filed with an agency that regulates the affiliate.

SECTION 6. Subchapter B, Chapter 823, Insurance Code, is amended by adding Section 823.0595 to read as follows:

Sec. 823.0595. ENTERPRISE RISK REPORT. (a) Except as provided by Subsections (d) and (f), the ultimate controlling person, as defined by Section 823.055, of each insurer required to file an annual registration shall file with the registration an annual enterprise risk report. The report must, to the best of the ultimate controlling person's knowledge, identify the material risks within the insurance holding company system that may pose enterprise risk to the insurer. The report must be filed with the lead state commissioner of the insurance holding company system, as determined by the commissioner. In determining the lead state commissioner, the commissioner shall consider the procedures adopted by the National Association of Insurance Commissioners.

(b) The ultimate controlling person of an insurer shall file the first enterprise risk report required by this section with the first annual registration statement due after:

(1) January 1, 2013, if the total direct or assumed annual premiums of the insurer were \$5 billion or more during the preceding 12-month period;

(2) January 1, 2014, if the total direct or assumed annual premiums of the insurer were more than \$1 billion but less than \$5 billion during the preceding 12-month period;

(3) January 1, 2015, if the total direct or assumed annual premiums of the insurer were more than \$500 million but less than \$1 billion during the preceding 12-month period; or

(4) January 1, 2016, if the total direct or assumed annual premiums of the insurer were \$300 million or more but less than \$500 million during the preceding 12-month period.

(c) Subsection (b) and this subsection expire January 2, 2015.

(d) Except as provided by Subsection (e), the ultimate controlling person of an insurer with total direct or assumed annual premiums of less than \$300 million is not required to submit an enterprise risk report under Subsection (a).

(e) Regardless of total direct or assumed annual premium, the ultimate controlling person of an insurer that is not in compliance with applicable risk-based capital standards or that is otherwise in hazardous condition, as determined by the commissioner, shall file an enterprise risk report required by Subsection (a) as directed by the commissioner.

(f) An insurer or health maintenance organization that in the preceding calendar year had direct written and assumed premiums of more than \$300 million but less than \$500 million may request an exemption from the reporting requirements of Subsection (a) by filing with the commissioner a written statement describing the undue financial or organizational hardship the insurer or health maintenance organization would suffer as a result of complying with Subsection (a). The commissioner may grant the exemption if the commissioner finds that compliance with Subsection (a) would impose an undue financial or organizational hardship on the insurer or health maintenance organization.

(g) The ultimate controlling person of an insurance holding company system is not required to submit an enterprise risk report under Subsection (a) if:

(1) the ultimate controlling person:

(A) has owned a controlling interest in the voting securities of an insurer described by Subdivision (2) since September 1, 1991, or before;

(B) is a charitable foundation, trust, or both; and

(C) has not filed or received a disclaimer under Section 823.010; and

(2) the insurer in which the ultimate controlling person owns a controlling interest:

(A) was organized under the laws of this state before January 1, 1910;

(B) is registered under Subchapter B;

(C) has issued equity shares of stock registered under Section 12,

Securities Exchange Act of 1934 (15 U.S.C. Section 781);

(D) on September 1, 2011, owns or controls an insurance company subsidiary that is party of the same insurance holding company system as the insurer; and

(E) files with the commissioner all registration statements and information relating to material changes of the insurance holding company system required under Subchapter B, including the financial statements of the ultimate controlling person described by Subdivision (1).

(h) An exemption under Subsection (g) applies only for the period during which the ultimate controlling person described by Subsection (g)(1) satisfies the requirements of Subsection (g) and expires on the date of a change in control of the insurer described by Subsection (g)(2) involving at least 50 percent of the voting securities of the insurer. An insurance holding company system may reapply for an exemption under Subsection (g) after the change in control if the system continues to meet the requirements of Subsection (g).

(i) An ultimate controlling person described by Subsection (g)(1) and an insurer described by Subsection (g)(2) shall respond to reasonable inquiries from the department related to the administration of Chapter 404.

SECTION 7. Section 823.060, Insurance Code, is amended to read as follows:

Sec. 823.060. VIOLATION OF SUBCHAPTER. The failure to file a registration statement or an amendment to a registration statement, or an enterprise risk report, within the time specified for filing the statement, ~~or~~ amendment, or report, as required by this subchapter, is a violation of this subchapter.

SECTION 8. The heading to Section 823.101, Insurance Code, is amended to read as follows:

Sec. 823.101. STANDARDS FOR TRANSACTION WITHIN AN INSURANCE HOLDING COMPANY SYSTEM ~~[WITH AFFILIATE]~~.

SECTION 9. Section 823.101, Insurance Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a) This section applies only to a material transaction within an insurance holding company system to which an ~~[between a registered insurer and an affiliate of the]~~ insurer subject to a registration under Section 843.052 is a party.

(b-1) An agreement, including an agreement for cost-sharing, services, or management, must include all provisions required by rule of the commissioner.

SECTION 10. Section 823.102, Insurance Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) This section applies only to a sale, purchase, exchange, loan or other extension of credit, or investment between a domestic insurer and any person in the insurer's insurance holding company system, including an amendment or modification of an affiliate agreement previously filed under this section, that involves more than the lesser of 5 percent of the insurer's admitted assets or 25 percent of the insurer's surplus, as of December 31 of the year preceding the year in which the transaction occurs.

(d) The notice described by Subsection (c) must include:

(1) the reasons for entering into or changing the transaction; and

(2) the financial impact of the transaction on the domestic insurer.

(e) Not later than the 30th day after the termination of a previously filed agreement, the domestic insurer shall give notice of the termination to the commissioner.

SECTION 11. Section 823.103, Insurance Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) This section applies only to:

(1) a sale, purchase, exchange, loan or other extension of credit, or investment between a domestic insurer and any person in the insurer's insurance holding company system, including an amendment or modification of an affiliate agreement previously filed under this section:

(A) that involves more than the lesser of one-half of one percent of the insurer's admitted assets or five percent of the insurer's surplus, as of December 31 of the year preceding the year in which the transaction occurs; and

(B) the approval of which is not required under Section 823.102;

(2) a reinsurance agreement, including a reinsurance treaty or pooling agreement, or an amendment or modification of an agreement previously filed under this section, between a domestic insurer and any person in the insurer's holding company system ~~[or a modification of such an agreement]~~;

(3) a rendering of services between a domestic insurer and any person in the insurer's holding company system on a regular or systematic basis, including a tax-allocation agreement, or an amendment or modification of an agreement previously filed under this section; or

(4) any material transaction between a domestic insurer and any person in the insurer's holding company system that is specified by rule and that the commissioner determines may adversely affect the interests of the insurer's policyholders or of the public, including an amendment or modification of an agreement previously filed under this section.

(e) The notice described by Subsection (c) must include:

(1) the reasons for entering into or changing the transaction; and

(2) the financial impact of the transaction on the domestic insurer.

(f) Not later than the 30th day after the termination of a previously filed agreement, the domestic insurer shall give notice of the termination to the commissioner.

SECTION 12. Section 823.154, Insurance Code, is amended to read as follows:

Sec. 823.154. REQUIREMENTS FOR ACQUISITION OR EXERCISE OF CONTROL OR DIVESTITURE OF DOMESTIC INSURER. (a) Before a person who directly or indirectly controls, or after the acquisition would directly or indirectly control, a domestic insurer may in any manner acquire a voting security of a domestic insurer or before a person may otherwise acquire control of a domestic insurer or exercise any control over a domestic insurer, or before a person may initiate a divestiture of control of a domestic insurer:

(1) the acquiring person shall file with the commissioner a statement that satisfies the requirements of Subchapter E; ~~and~~

(2) the acquisition or divestiture of control must be approved by the commissioner in accordance with this subchapter; and

(3) if the person is initiating a divestiture of control, the divesting person shall file with the commissioner a notice of divestiture on a form adopted by the National Association of Insurance Commissioners or adopted by the commissioner by rule.

(b) The acquiring person or divesting person shall send a copy of the statement filed under this section to the domestic insurer.

(c) A statement or notice filed under this section must be filed not later than the 60th day before the proposed effective date of the acquisition or change of control or divestiture and is subject to public inspection at the office of the commissioner.

(d) Notwithstanding Subsection (a), a divesting person is not required to provide the commissioner with notice of divestiture required by Subsection (a)(3) if an acquiring person submits the statement required by Subsection (a)(1) and that acquisition is approved by the commissioner.

SECTION 13. Section 823.157, Insurance Code, is amended to read as follows:

Sec. 823.157. APPROVAL OF ACQUISITION, CHANGE, OR DIVESTITURE OF CONTROL. (a) The commissioner shall approve or deny an acquisition, ~~or~~ change, or divestiture of control for which a statement or notice is filed under Section 823.154 not later than the 60th day after the date the statement required by that section is filed. The 60-day period may be waived by the person filing the statement or notice required by Section 823.154 and the domestic insurer. On the request of either the person filing the statement or notice required by Section 823.154, or the domestic insurer, the commissioner shall hold a hearing on a denial.

(b) In considering whether to approve or deny, the commissioner shall consider whether:

(1) immediately on the acquisition, ~~or~~ change, or divestiture of control the domestic insurer would not be able to satisfy the requirements for the issuance of a new certificate of authority to write the line or lines of insurance for which the insurer holds a certificate of authority;

(2) the effect of the acquisition, ~~or~~ change, or divestiture of control would be substantially to lessen competition in a line or subclassification lines of insurance in this state or tend to create a monopoly in a line or subclassification lines of insurance in this state;

(3) the financial condition of the acquiring person may jeopardize the financial stability of the domestic insurer or prejudice the interest of the domestic insurer's policyholders;

(4) the acquiring person has a plan or proposal to liquidate the domestic insurer or cause the insurer to declare dividends or make distributions, sell any of its assets, consolidate or merge with any person, make a material change in its business or corporate structure or management, or enter into a material agreement, arrangement, or transaction of any kind with any person, and that the plan or proposal is unfair, prejudicial, hazardous, or unreasonable to the insurer's policyholders and not in the public interest;

(5) due to a lack of competence, trustworthiness, experience, and integrity of the persons who would control the operation of the domestic insurer, the acquisition or change of control would not be in the interest of the insurer's policyholders and the public;

(5-a) the divestiture of control may jeopardize the financial stability of the domestic insurer or prejudice the interest of the domestic insurer's policyholders and other claimants; or

(6) the acquisition, ~~or~~ change, or divestiture of control would violate the law of this or another state or the United States.

(c) If a proposed acquisition, change, or divestiture of control will require the approval of more than one commissioner, the commissioner may participate in a public hearing referred to in this chapter held on a consolidated basis on request of the person filing the statement required by Section 823.154. The person filing the statement under Section 823.154 shall file the statement with the National Association of Insurance Commissioners within five days of making the request for a public hearing. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. The commissioners shall hear and receive evidence at the hearing. The commissioner may attend the hearing in person or by telecommunication.

(d) This section does not require the commissioner to hold a hearing before approving or denying an acquisition, change, or divestiture of control.

SECTION 14. Section 823.201, Insurance Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The acquiring person shall agree to provide the annual enterprise risk report required by Section 823.0595 for as long as the acquiring person maintains control of the insurer.

(e) The acquiring person and all subsidiaries within the acquiring person's control in the insurance holding company system shall provide information to the commissioner on request of the commissioner as the commissioner deems necessary to evaluate enterprise risk to the insurer.

SECTION 15. Section 823.205, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) An insurer required to file information under Section 823.154 may satisfy the requirement of Section 823.052(c-1) by providing the commissioner with the most recently filed parent corporation reports that have been filed with the United States Securities and Exchange Commission, if required by the commissioner.

SECTION 16. Section 823.351, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (b-1) to read as follows:

(a) Subject to Section 823.352, the commissioner may order an insurer registered under Subchapter B to produce records, books, or other information papers in the possession of the insurer or an affiliate of the insurer that are necessary to ascertain the financial condition or legality of conduct of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(a-1) To determine compliance with this chapter, the commissioner may order any insurer registered under Subchapter B to produce information not in the possession of the insurer if the insurer can obtain access to the information pursuant to contractual relationships, statutory obligations, or other methods. In the event that the insurer is unable to obtain the information requested by the commissioner, the insurer

shall provide the commissioner with a detailed explanation of the reason why the insurer is unable to obtain the information, and the identity of the holder of information. If it appears to the commissioner that the insurer's explanation is without merit, the commissioner may after notice and hearing;

(1) require the insurer to pay a penalty of not less than \$100 for each day the insurer delays producing the information; or

(2) suspend or revoke the insurer's license.

(b) If an insurer fails to comply with an order under this section [Subsection (a)], the commissioner by order may require the examination of each holding company of the insurer and each controlled person or affiliate in the insurer's insurance holding company system if the commissioner has cause to believe that:

(1) the operations of that person may materially affect the operations, management, or financial condition of any controlled insurer in that system; and

(2) the commissioner is unable to obtain relevant information from the controlled insurer.

(b-1) The commissioner may issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with this section. On the failure or refusal of a person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and on proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court. A person shall attend as a witness at the place specified in the subpoena, when subpoenaed, at any location in this state. The person is entitled to the same fees and mileage, if claimed, as a witness in district court. Fees, mileage, and actual expenses necessarily incurred in securing the attendance of a witness shall be itemized and charged against, and be paid by, the insurer being examined.

SECTION 17. Section 823.452, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If it appears to the commissioner that a person has committed a violation of Subchapter D that prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for issuing an order under Chapter 404 or Chapter 441.

SECTION 18. (a) Subject to Subsection (b) of this section, the Texas Department of Insurance may not implement Section 823.0595, Insurance Code, as added by this Act, until the date that the commissioner determines that the National Association of Insurance Commissioners has completed an enterprise risk form and has proposed a master confidentiality agreement and places notice of that determination in the Texas Register.

(b) An insurer is not required to file an enterprise risk report under Section 823.0595, Insurance Code, as added by this Act, until January 1, 2014.

SECTION 19. This Act takes effect September 1, 2011.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 1431**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

SENATE BILL 260 WITH HOUSE AMENDMENT

Senator West called **SB 260** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 260** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 42.0421, Human Resources Code, is amended by amending Subsection (a) and adding Subsections (f) and (g) to read as follows:

(a) The minimum training standards prescribed by the department under Section 42.042(p) for an employee, director, or operator of a day-care center, ~~[or]~~ group day-care home, or registered family home must include:

(1) 24 ~~eight~~ hours of initial training that must be completed not later than the 90th day after the employee's first day of employment for an employee of a day-care center who has no previous training or less than two years of employment experience in a regulated child-care facility, eight hours of which must ~~[to]~~ be completed before the employee is given responsibility for a group of children;

(2) 24 ~~[15]~~ hours of annual training for each employee of a day-care center or group day-care home, excluding the director, which must include at least six hours of training in one or more of the following areas:

- (A) child growth and development;
- (B) guidance and discipline;
- (C) age-appropriate curriculum; and
- (D) teacher-child interaction; and

(3) 30 ~~[20]~~ hours of annual training for each director of a day-care center or group day-care home, or operator of a registered family home, which must include at least six hours of training in one or more of the following areas:

- (A) child growth and development;
- (B) guidance and discipline;
- (C) age-appropriate curriculum; and
- (D) teacher-child interaction.

(f) In adopting the minimum training standards under Section 42.042(p), the department may not require more training hours than the number of hours prescribed by Subsection (a) for a day-care center, group day-care home, or a registered family home.

(g) The executive commissioner by rule shall adopt minimum training standards for before-school or after-school and school-age programs as required by Section 42.042(p). In adopting minimum training standards for before-school or after-school and school-age programs under this subsection, the executive commissioner may not require more initial or annual training hours than the number of hours required by Subsection (a) immediately before September 1, 2011.

SECTION 2. Section 42.0426, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) Not later than the seventh day after the date an employee begins employment at a day-care center, group day-care home, or registered family home, the employee must complete an orientation to the facility.

SECTION 3. (a) Section 42.0421(a)(1), Human Resources Code, as amended by this Act, and Section 42.0426(c), Human Resources Code, as added by this Act, apply only to an employee who is initially employed by a child-care facility on or after the effective date of this Act. An employee who is initially employed by a child-care facility before that date is subject to the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Sections 42.0421(a)(2) and (3), Human Resources Code, as amended by this Act, apply to an employee or director of a child-care facility regardless of the date the person began employment with or service as director of the child-care facility.

SECTION 4. This Act takes effect September 1, 2011.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 260**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

HOUSE BILL 2949 ON SECOND READING

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2949** at this time on its second reading:

HB 2949, Relating to the administration of the collection improvement program.

The bill was read second time.

Senator Eltife offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2949** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Articles 103.0033(b), (c), (e), (f), (h), (i), and (j), Code of Criminal Procedure, are amended to read as follows:

(b) This article applies ~~[only]~~ to each[-

~~[(1)-a] county in this state [with a population of 50,000 or greater;]~~ and to each

~~[(2)-a] municipality with a population of 100,000 or greater.~~

(c) Unless granted a waiver under Subsection (h), each ~~[county and]~~ municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county may develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county program must include district, county, and justice courts.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and
(2) are planning ~~[able]~~ to implement a program before April 1 of the following year.

(f) The ~~[comptroller, in cooperation with the]~~ office~~[-]~~ shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The office ~~[comptroller]~~ shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(h) The office~~[-, in consultation with the comptroller,]~~ may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) for a municipality, determine whether it is not actually cost-effective to implement a program in the ~~[a county or]~~ municipality and grant a waiver to the ~~[county or]~~ municipality.

(i) Each county that implements a program and each municipality shall at least annually submit to the office ~~[and the comptroller]~~ a written report that includes updated information regarding the program, as determined by the office ~~[in cooperation with the comptroller]~~. The report must be in a form approved by the office ~~[in cooperation with the comptroller]~~.

(j) The office ~~[comptroller]~~ shall periodically audit ~~[counties and]~~ municipalities to verify information reported under Subsection (i) and confirm that the ~~[county or]~~ municipality is conforming with requirements relating to the program. ~~[The comptroller shall consult with the office in determining how frequently to conduct audits under this section.]~~

SECTION 2. Section 133.058(e), Local Government Code, is amended to read as follows:

(e) A municipality ~~[or county]~~ may not retain a service fee if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality ~~[or county]~~ may continue to retain a service fee under this section on receipt of a written confirmation from the office ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 3. Section 133.103(c-1), Local Government Code, is amended to read as follows:

(c-1) The treasurer shall send to the comptroller 100 percent of the fees collected under this section by a municipality ~~[to the comptroller]~~ if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality ~~[or county]~~ shall continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the office ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

The amendment to **HB 2949** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2949** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Articles 103.0033(a), (b), (c), (d), (e), (f), (h), (i), and (j), Code of Criminal Procedure, are amended to read as follows:

(a) In this article:

(1) "Eligible case" means a criminal case in which the judgment has been entered by a trial court. The term does not include a criminal case in which a defendant has been placed on deferred disposition or has elected to take a driving safety course.

(2) "Office" means the Office of Court Administration of the Texas Judicial System.

(3) ~~(2)~~ "Program" means the program to improve the collection of court costs, fees, and fines imposed in criminal cases, as developed and implemented under this article.

(b) This article applies ~~only~~ to ~~each~~[-

~~(1) a~~ county in this state ~~[with a population of 50,000 or greater;]~~ and to each

~~(2) a~~ municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h), each ~~county and~~ municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county may develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county program must include district, county, and justice courts.

(d) The program must consist of:

(1) a component that conforms with a model developed by the office and designed to improve in-house collections for eligible cases through the application of best practices; and

(2) a component designed to improve the collection of balances for eligible cases more than 60 days past due, which may be implemented by entering into a contract with a private attorney or public or private vendor in accordance with Article 103.0031.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and
(2) are planning ~~[able]~~ to implement a program before April 1 of the following year.

(f) The ~~[comptroller, in cooperation with the]~~ office^[7] shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The office ~~[comptroller]~~ shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(h) The office~~[-, in consultation with the comptroller,]~~ may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) for a municipality, determine whether it is not actually cost-effective to implement a program in the ~~[a county or]~~ municipality and grant a waiver to the ~~[county or]~~ municipality.

(i) Each county that implements a program and each municipality shall at least annually submit to the office ~~[and the comptroller]~~ a written report that includes updated information regarding the program, as determined by the office ~~[in cooperation with the comptroller]~~. The report must be in a form approved by the office ~~[in cooperation with the comptroller]~~.

(j) The office ~~[comptroller]~~ shall periodically audit ~~[counties and]~~ municipalities to verify information reported under Subsection (i) and confirm that the ~~[county or]~~ municipality is conforming with requirements relating to the program. ~~[The comptroller shall consult with the office in determining how frequently to conduct audits under this section.]~~

SECTION 2. Section 133.058(e), Local Government Code, is amended to read as follows:

(e) A municipality ~~[or county]~~ may not retain a service fee if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure, and if the municipality is unable to reestablish compliance on or before the 180th day after the date the municipality receives written notice of noncompliance from the office. After any period in which the municipality becomes unable to retain a service fee under this subsection, the ~~[The]~~ municipality ~~[or county]~~ may begin once more ~~[continue]~~ to retain the ~~[a service]~~ fee only ~~[under this section]~~ on receipt of a written confirmation from the office ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 3. Section 133.103(c-1), Local Government Code, is amended to read as follows:

(c-1) The treasurer shall send to the comptroller 100 percent of the fees collected under this section by a municipality ~~[to the comptroller]~~ if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure, and if the municipality is unable to reestablish

compliance on or before the 180th day after the date the municipality receives written notice of noncompliance from the office. After any period in which the treasurer is required under this subsection to send 100 percent of the fees collected under this section to the comptroller, the [The] municipality [or county] shall begin once more [continue] to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the office [comptroller] that the municipality [or county] is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 4. Section 706.005(a), Transportation Code, is amended to read as follows:

(a) A political subdivision shall immediately notify the department that there is no cause to continue to deny renewal of a person's driver's license based on the person's previous failure to appear or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a), on payment of a fee as provided by Section 706.006 and:

(1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;

(2) the dismissal of the charge for which the warrant of arrest was issued or judgment arose;

(3) the posting of bond or the giving of other security to reinstate the charge for which the warrant was issued;

(4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or

(5) other suitable arrangement to pay the fine and cost within the court's discretion.

SECTION 5. The change in law made by this Act in amending Sections 133.058(e) and 133.103(c-1), Local Government Code, applies only to an audit commenced on or after the effective date of this Act. An audit commenced before the effective date of this Act is governed by the law in effect when the audit was commenced, and the former law is continued in effect for that purpose.

SECTION 6. The change in law made by this Act in amending Article 103.0033, Code of Criminal Procedure, applies only to a court cost, fee, or fine imposed in a criminal case on or after the effective date of this Act. A court cost, fee, or fine imposed in a criminal case before the effective date of this Act is governed by the law in effect on the date the cost, fee, or fine was imposed, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2011.

The amendment to **HB 2949** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Ogden.

On motion of Senator Eltife and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2949 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 2949 ON THIRD READING

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2949** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1756 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1756** at this time on its second reading:

CSHB 1756, Relating to the creation of the Pilot Knob Municipal Utility District No. 2; providing authority to impose a tax and issue bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1756 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1756** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 2810 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2810** at this time on its second reading:

CSHB 2810, Relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2810 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2810** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 675 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **HB 675** at this time on its second reading:

HB 675, Relating to football helmet safety requirements in public schools.

The motion prevailed.

Senator Birdwell asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell.

Absent-excused: Ogden.

HOUSE BILL 675 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 675** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Birdwell.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1619 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1619** at this time on its second reading:

CSHB 1619, Relating to emergency service districts.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1619 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1619** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3109 ON SECOND READING**

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3109** at this time on its second reading:

CSHB 3109, Relating to the rulemaking power of certain groundwater conservation districts.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3109 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3109** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1178 ON SECOND READING

On motion of Senator Birdwell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1178** at this time on its second reading:

HB 1178, Relating to employment protection for members of the state military forces.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1178** by adding the following SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter D, Chapter 504, Transportation Code, is amended by adding Section 504.317.

Sec. 504.317. WOMEN VETERANS. The department shall issue specialty license plates for female active or former members of the United States armed forces, Texas National Guard, or Texas State Guard. The license plates must include the words "Woman Veteran" in red.

The amendment to **HB 1178** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

On motion of Senator Birdwell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1178 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 1178 ON THIRD READING

Senator Birdwell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1178** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2136 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2136** at this time on its second reading:

CSHB 2136, Relating to regional contracted brokers and subcontractors of regional contracted brokers providing Medicaid nonemergency medical transportation services.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2136** (Senate Committee Printing) as follows:

In SECTION 1 strike added Section 531.02414(a)(1)(B), Government Code, in its entirety.

The amendment to **CSHB 2136** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2136 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2136 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2136** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2226 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2226** at this time on its second reading:

HB 2226, Relating to authorized investments for governmental entities.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2226** (senate committee printing) as follows:

(1) In SECTION 5 of the bill, in amended Section 2256.010(b)(4), Government Code (page 3, line 1), strike "or" and substitute ";".

(2) In SECTION 5 of the bill, in amended Section 2256.010(b)(4), Government Code (page 3, line 1), between "Section 2257.041(d)," and "[aets]", insert "or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3),".

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

SECTION _____. Section 2256.011(a), Government Code, is amended to read as follows:

(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1); and

(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

The amendment to **HB 2226** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2226** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sec. 12.027, Agriculture Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to a program described under Subsection (a), the department may actively seek funding to establish and administer additional economic development programs for the benefit of the state.

The amendment to **HB 2226** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Ogden.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2226 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 2226 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2226** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2902 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2902** at this time on its second reading:

HB 2902, Relating to the extraterritorial jurisdiction of certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 2902 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2902** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1757 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1757** at this time on its second reading:

CSHB 1757, Relating to the creation of the Pilot Knob Municipal Utility District No. 1; providing authority to impose a tax and issue bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1757 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1757** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 336 ON SECOND READING

Senator Rodriguez moved to suspend the regular order of business to take up for consideration **HB 336** at this time on its second reading:

HB 336, Relating to the filing and posting on the Internet of reports of political contributions and expenditures required in connection with the office of member of the board of trustees of certain school districts.

The motion prevailed.

Senator Huffman asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 336** (senate committee printing) on page 1 by striking lines 17-20 and substituting the following:

Sec. 254.04011. AVAILABILITY OF REPORTS OF SCHOOL TRUSTEES ON INTERNET. (a) This section applies only to a school district:

(1) located wholly or partly in a municipality with a population of more than 500,000; and

(2) with a student enrollment of more than 15,000.

The amendment to **HB 336** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

On motion of Senator Rodriguez and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 336 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Huffman.

Absent-excused: Ogden.

HOUSE BILL 336 ON THIRD READING

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 336** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Huffman.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 2490 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 2490** at this time on its second reading:

CSHB 2490, Relating to the regulation of crafted precious metal dealers; providing criminal penalties.

The motion prevailed.

Senators Birdwell, Harris, and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2490** (senate committee report), by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1956.051, Occupations Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Commissioner" means the consumer credit commissioner.

(1-a) "Crafted precious metal" means jewelry, silverware, an art object, or another object, other than a coin or commemorative medallion, made in whole or in part from precious metal.

SECTION 2. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Sections 1956.0611 through 1956.0615 to read as follows:

Sec. 1956.0611. REGISTRATION AS DEALER. (a) A person may not engage in the business of purchasing and selling crafted precious metal unless the person is registered with the commissioner as a dealer under this section.

(b) To register as a dealer, a person must provide to the commissioner, on or before December 31 preceding each calendar year in which the person seeks to act as a dealer:

(1) a list of each location in this state at which the person will conduct business as a dealer; and

(2) a processing fee for each location included on the list furnished under Subdivision (1).

(c) The commissioner shall prescribe the processing fee in an amount necessary to cover the costs of administering this section.

(d) After the December 31 deadline, a dealer may amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.

(e) The commissioner shall make available to the public a list of dealers registered under this section.

(f) The commissioner may prescribe the registration form.

(g) A reference to a registration in another subchapter of this chapter does not apply to a person to the extent the person is registered under this subchapter.

Sec. 1956.0612. INVESTIGATION BY COMMISSIONER. The commissioner shall:

(1) monitor the operations of a dealer to ensure compliance with this chapter; and

(2) receive and investigate complaints against a dealer or a person acting as a dealer.

Sec. 1956.0613. REVOCATION OF REGISTRATION. (a) The commissioner may revoke the registration of a dealer if the commissioner concludes that the dealer has violated this chapter. The commissioner shall recite the basis of the decision in an order revoking the registration.

(b) If the commissioner proposes to revoke a registration, the dealer is entitled to a hearing before the commissioner or a hearings officer, who shall propose a decision to the commissioner. The commissioner or hearings officer shall prescribe the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.

(c) A dealer aggrieved by a ruling, order, or decision of the commissioner is entitled to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.

Sec. 1956.0615. ADMINISTRATIVE PENALTY. The commissioner may assess an administrative penalty not to exceed \$500 against a person for each knowing and willful violation of this chapter.

SECTION 3. Not later than November 1, 2011, the consumer credit commission shall prescribe the forms and fees necessary to implement Subchapter B, Chapter 1956, Occupations Code, as amended by this Act.

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Section 1956.0611, Occupations Code, as added by this Act, takes effect December 1, 2011.

The amendment to **CSHB 2490** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2490 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2490 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2490** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2779 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2779** at this time on its second reading:

CSHB 2779, Relating to provisions in the dedicatory instruments of property owners' associations regarding display of flags.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2779 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2779** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2380 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2380** at this time on its second reading:

HB 2380, Relating to employment by school districts of certain persons under probationary contracts.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2380** (senate committee printing) as follows:

(1) Strike SECTION 2 of the bill (page 1, lines 27-31) and substitute the following SECTION, appropriately numbered:

SECTION _____. (a) Except as provided by Subsection (b) of this section:

(1) this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution; and

(2) if this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

(b) Sections 21.0521, 21.0522, and 21.0523, Education Code, as added by this Act, take effect September 1, 2013.

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

SECTION _____. Subsection (b), Section 21.041, Education Code, is amended to read as follows:

(b) The board shall propose rules that:

(1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;

(2) specify the classes of educator certificates to be issued, including probationary, provisional, standard, and emergency certificates;

(3) specify the period for which each class of educator certificate is valid;

(4) specify the requirements for the issuance and renewal of an educator certificate;

(5) provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to Section 21.052;

(6) provide for special or restricted certification of educators, including certification of instructors of American Sign Language;

(7) provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code;

(8) provide for the adoption, amendment, and enforcement of an educator's code of ethics; and

(9) provide for continuing education requirements[; ~~and~~

~~(10) provide for certification of persons performing appraisals under Subchapter H].~~

SECTION _____. Subchapter B, Chapter 21, Education Code, is amended by adding Sections 21.0521, 21.0522, and 21.0523 to read as follows:

Sec. 21.0521. PROBATIONARY CERTIFICATE. (a) The board may issue a probationary certificate to a person enrolled in an alternative certification program or a postbaccalaureate certification program who has not completed all certification program requirements.

(b) A probationary certificate issued under this section expires on the first anniversary of the date on which the certificate was issued and may be renewed only for two additional one-year periods.

(c) A person who is issued a probationary certificate under this section and is employed under a probationary contract for a total of three years is eligible to receive a standard certificate on completion of all requirements under Section 21.0523(a).

(d) A person who is issued a probationary certificate may only be employed by a school district under a probationary contract and is not eligible to be employed under a term contract.

Sec. 21.0522. PROVISIONAL CERTIFICATE. (a) The board shall issue a provisional certificate to a person who has not previously been certified as an educator in this state and who has:

(1) successfully completed an educator preparation program;

(2) performed satisfactorily on the certification examination required by Section 21.048; and

(3) completed all other requirements for educator certification.

(b) A provisional certificate issued under this section:

(1) expires on the third anniversary of the date on which the certificate was issued; and

(2) is not renewable.

(c) A person enrolled in an alternative certification program or a postbaccalaureate certification program who has not completed all certification program requirements is not eligible for a provisional certificate. On completion of all requirements of the program, including an internship of one year, the person is eligible for a provisional certificate under this section.

(d) An educator who has been issued a probationary certificate and is employed under a probationary contract may receive a provisional certificate that expires on the third anniversary of the date on which the person was originally employed under the probationary contract.

(e) A person who is issued a provisional certificate under this section may be employed by a school district under a term contract as provided by Subchapter E.

Sec. 21.0523. STANDARD CERTIFICATE. (a) On the expiration of a person's provisional certificate or at the end of a person's third probationary contract term, the board shall issue a standard certificate to the person if the person has:

(1) demonstrated that the person is an effective educator; and

(2) completed all required continuing education hours.

(b) Notwithstanding Section 21.355, to assist the board in determining whether a person is an effective educator, the person applying for a standard certificate must submit to the board a copy of all educator appraisals of the person. The board shall take appropriate measures to maintain the confidentiality of the appraisals.

(c) The commissioner shall adopt rules to establish criteria for determining whether a person is an effective educator for purposes of this section.

SECTION _____. (a) Sections 21.0521, 21.0522, and 21.0523, Education Code, as added by this Act, apply to a person who has never been certified to teach in this state who applies for certification on or after September 1, 2013. A person who has never been certified to teach in this state who applies for certification before September 1, 2013, or a person who is certified to teach in this state on September 1, 2013, is governed by the law in effect immediately before September 1, 2013, and that law is continued in effect for that purpose.

(b) Not later than January 1, 2012, the State Board for Educator Certification shall propose rules as required by this Act.

The amendment to **HB 2380** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2380 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 2380 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2380** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1732 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1732** at this time on its second reading:

CSHB 1732, Relating to the applicability of the constitutional limit on state debt payable from the general revenues of the state to bonds issued by the Texas Water Development Board.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1732** (Senate Committee Report) by adding a new SECTION _____ as follows:

SECTION _____. Section 15.9751, Water Code is amended as follows:

Sec. 15.9751. PRIORITY FOR APPLICATIONS [~~WATER CONSERVATION~~].

The board shall give priority to applications for funds for the implementation of water supply projects in the state water plan based on factors determined by the board, including but not limited to recommended implementation date, historical need for water supply infrastructure investment, per capita water supply need, ability of the applicant to finance the project, and whether an applicant [~~by entities that~~]:

(1) has [~~have~~] already demonstrated significant water conservation savings;

or

(2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

The amendment to **CSHB 1732** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1732** by adding the following SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Section 15.975, Water Code, is amended by adding Subsection (d) to read as follows:

(d) The board may not approve an application if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Section 16.053(q).

SECTION _____. Section 15.912, Water Code, is amended to read as follows:

Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. (a) In acting on an application for financial assistance, the board shall consider:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the political subdivision or water supply corporation from all sources for any necessary repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs; and

(4) any other factors that the board considers relevant.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund for a project recommended through the state and regional water planning processes under Sections 16.051 and 16.053 if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Section 16.053(q).

SECTION _____. Section 16.131, Water Code, is amended to read as follows:

Sec. 16.131. AUTHORIZED PROJECTS. (a) The board may use the state participation account of the development fund to encourage optimum regional development of projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of:

- (1) reservoirs and storm water retention basins for water supply, flood protection, and groundwater recharge;
- (2) facilities for the transmission and treatment of water; and
- (3) treatment works as defined by Section 17.001 ~~[of this code]~~.

(b) the board may not use the state participation account of the development fund to finance a project recommended through the state and regional water planning processes under Sections 16.051 and 16.053 if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Section 16.053(q).

The amendment to **CSHB 1732** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Ogden.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1732 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1732 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1732** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1010 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1010** at this time on its second reading:

HB 1010, Relating to enforcement of commercial motor vehicle safety standards in certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 1010 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1010** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1353 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1353** at this time on its second reading:

HB 1353, Relating to speed limits.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 1353 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1353** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3111 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3111** at this time on its second reading:

HB 3111, Relating to fees to finance capital improvements in certain municipalities.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3111** by adding the following SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9016 to read as follows:

CHAPTER 9016. MIDLAND COUNTY UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9016.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "County" means Midland County.

(4) "Director" means a board member.

(5) "District" means the Midland County Utility District.

(6) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction any part of the district is located.

Sec. 9016.002. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9016.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 9016.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 9016.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 9016.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of a water control and improvement district as provided by general law and Section 59, Article XVI, Texas Constitution.

Sec. 9016.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 9016.007-9016.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9016.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (c), the district is governed by a board of five elected directors.

(b) Except as provided by Section 9016.052, directors serve staggered four-year terms.

(c) If the municipality annexes any part of the territory of the district, the municipality shall appoint one ex officio member to the board to serve as a sixth director.

Sec. 9016.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

- (1) Shelton Viney;
- (2) Susie Hitchcock-Hall;
- (3) Alan Lang;
- (4) David Orr; and
- (5) Israel Rodriguez.

(b) Temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 9016.003; or
- (2) September 1, 2015.

(c) If permanent directors have not been elected under Section 9016.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 9016.003; or
- (2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

Sec. 9016.053. NOTICE OF MEETINGS. The district shall provide the municipality with written notice before a meeting of the board.

[Sections 9016.054-9016.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9016.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 9016.102. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

Sec. 9016.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 42.042, Local Government Code, and Section 9016.004 and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 9016.104. COMPLIANCE WITH MUNICIPAL REGULATIONS. (a) Any water, sanitary sewer, drainage, or other infrastructure or public facilities constructed, acquired, improved, maintained, or operated by the district shall comply with any applicable regulations of the municipality in whose corporate limits or extraterritorial jurisdiction the infrastructure or facilities are located.

(b) Any water system constructed, acquired, improved, maintained, or operated by the district shall:

(1) comply with any applicable regulations of the municipality regarding specifications for rural density; and

(2) contain distribution lines that are:

(A) four inches or more in diameter; and

(B) sufficient to provide fire hydrant service according to the municipality's specifications for rural density.

Sec. 9016.105. COUNTY RIGHT-OF-WAY. The district must obtain the approval of the county's governing body of the plans and specifications of any facilities to be installed on property located in a county right-of-way.

Sec. 9016.106. LIABILITY. (a) Neither the county nor the municipality is liable for any claims arising from the operation of the district's water system or other actions or inactions of the district, including labor, safety, or signage, or contamination or other environmental issues.

(b) Any action taken by the municipality is a governmental function.

Sec. 9016.107. COSTS OF LINE RELOCATION. (a) The district is solely responsible for the expense associated with the relocation of any district water line required by:

(1) the county or a municipality; or

(2) a state or federal highway authority, including the Texas Department of Transportation and the Federal Highway Administration.

(b) The district will not unreasonably delay any requested line relocation.

Sec. 9016.108. SERVICES TO BE PROVIDED BY THE DISTRICT, COUNTY, OR MUNICIPALITY. (a) The district may enter into an interlocal contract with the county or municipality to provide governmental functions, including fire protection, trash collection and disposal, and ambulance service.

(b) Notwithstanding Subsection (a), the municipality is authorized to provide sewer and drainage service in the district. The municipality shall establish the amount of the fees to be charged to recipients of sewer and drainage service under this subsection.

(c) Notwithstanding Subsection (a), the district may not provide any services within the territorial limits of the municipality as those limits exist on September 1, 2011.

Sec. 9016.109. ANNEXATION BY MUNICIPALITY. (a) The municipality may annex a part of the territory of the district without annexing the entire territory of the district.

(b) If the municipality annexes all or part of the district:

(1) the annexed territory is not removed from the district; and

(2) the district is not:

(A) dissolved; or

(B) prevented from providing district services to the annexed territory.

(c) If any territory inside the district is annexed, the owner of the property shall pay the same rate of ad valorem tax to the municipality as other residents of the municipality.

(d) By annexing territory in the district, the municipality does not assume any debt of the district.

(e) The district may not contest an annexation by the municipality.

Sec. 9016.110. WATER SERVICE DEADLINE. The district must begin operation of a water system serving at least a part of the district not later than the sixth anniversary of the date that district voters approve the issuance of bonds to provide for the development of the water system.

Sec. 9016.111. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain:

(1) outside the district to acquire a site or easement for a recreational facility as defined by Section 49.462, Water Code; or

(2) in the corporate limits of the municipality as those limits exist on September 1, 2011.

Sec. 9016.112. PROHIBITION ON DIVISION OF DISTRICT. The district may not divide into two or more districts.

[Sections 9016.113-9016.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9016.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 9016.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 9016.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 9016.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 9016.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 9016.154-9016.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 9016.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 9016.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Section 51.433, Water Code.

Sec. 9016.203. LIMITATION ON TAX RATE. Notwithstanding any other provision of this chapter, the projected combined operation, maintenance, and debt service tax rates as of the date of the issuance of any bonds, as described by the commission in a commission order approving the issuance of the bonds, may not exceed 65 cents for each \$100 of assessed valuation of property in the district.

Sec. 9016.204. BONDS AND OTHER OBLIGATIONS NOT TO BE PAID BY MUNICIPALITY OR COUNTY. Bonds or other obligations of the district:

(1) may not be paid wholly or partly by taxes imposed by the county or the municipality;

(2) are not debts of the county or municipality; and

(3) do not give rise to a claim against the county or municipality.

SECTION _____. The Midland County Utility District initially includes all the territory contained in the following area:

54,050 Acres of Land

Located in Various Sections and Blocks,
T&P RR Co. Survey, Midland County, Texas.

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y= 10,677,038' and X= 1,736,917') a point in the west line of Section 7, Block 39, T2S and a southerly line of Midland city limits and being the most westerly northwest corner of this tract;

THENCE S 14°19' E, a distance of 2685 feet to the southwest corner of said Section 7 and being an ell corner of this tract;

THENCE N 75°10' E with the south right-of-way line of West County Road 120, a distance of 7031 feet to a point in the north line of Section 17 this block for a point of deflection of this tract;

THENCE S 64°46' E, a distance of 4725 feet to a point in the east line of said Section 17 and in the west right-of-way line of South County Road 1210 also being a point of deflection of this tract;

THENCE S 14°23' E with the west right-of-way line of said South County Road 1210, a distance of 6340 feet to a point in the north right-of-way line of West County Road 138 and being an ell corner of this tract;

THENCE S 75°41' W with the north right-of-way line of said West County Road 138, a distance of 3340 feet to a point in the west right-of-way line of South County Road 1216 and being an ell corner of this tract;

THENCE S 14°52' E with the west right-of-way line of said South County Road 1216, a distance of 1272 feet to a point in the north right-of-way line of West County Road 140 and being an ell corner of this tract;

THENCE S 75°29' W with the north right-of-way line of said West County Road 140, a distance of 1974 feet to a point near the northwest corner of Section 29, Block 39, T2S and being an ell corner of this tract;

THENCE S 14°16' E, a distance of 26,411 feet to a point near the southwest corner of Section 6, Block 39, T3S and being the most southerly southwest corner of this tract;

THENCE N 75°59' E, a distance of 15,901 feet to a point in the east right-of-way line of State Highway 349 and being the most southerly southeast corner of this tract;

THENCE N 14°08' W with the east right-of-way line of said State Highway 349, a distance of 18,548 feet to a point near the southwest corner of Condor Aviation Co. Inc. tract and being an ell corner of this tract;

THENCE N 75°17' E, a distance of 5227 feet to a point in the east line of Section 35, Block 39, T2S and being an ell corner of this tract;

THENCE N 14°23' W, a distance of 1604 feet to a point for an ell corner of this tract;

THENCE N 76°20' E, a distance of 5414 feet to a point in the east right-of-way line of Farm to Market Road 715 and being an ell corner of this tract;

THENCE N 14°21' W with the east right-of-way line of said Farm to Market Road 715, a distance of 664 feet to a point for an ell corner of this tract;

THENCE N 75°23' E, a distance of 2628 feet to a point in the west half of Section 24, Block 38, T2S and being an ell corner of this tract;

THENCE S 14°03' E, a distance of 8251 feet to a point for an ell corner of this tract;

THENCE N 76°09' E, a distance of 2658 feet to a point in the east right-of-way line of South County Road 1160 and being an ell corner of this tract;

N 14°22' W with the east right-of-way line of said South County Road 1160, a distance of 3359 feet to a point in the south right-of-way line of East County Road 160 and being an ell corner of this tract;

THENCE N 75°38' E with the south right-of-way line of said East County Road 160, a distance of 10,581 feet to a point near the southeast corner of Section 22, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°07' W with the east line of said Section 22, a distance of 5353 feet to a point near the northeast corner of said Section 22 and being an ell corner of this tract;

THENCE N 75°40' E, a distance of 1381 feet to a point near the southeast corner of George V. Anderson Jr. tract and the southwest corner of Donna Johnson tract also being an ell corner of this tract;

THENCE N 14°03' W with the west line of said Donna Johnson tract and the east line of said George V. Anderson Jr. tract, a distance of 1926 feet to a point near the northwest corner of said Donna Johnson tract and being an ell corner of this tract;

THENCE N 75°43' E, a distance of 1355 feet to a point in the east right-of-way line of South County Road 1136 and being an ell corner this tract;

THENCE N 13°52' W with the east right-of-way line of said South County Road 1136, a distance of 8663 feet to a point in the southwesterly right-of-way of State Highway 158 and the south right-of-way line of East County Road 130 also being an ell corner of this tract;

THENCE N 75°27' E with the south right-of-way line of said East County Road 130, a distance of 3996 feet to a point for an ell corner of this tract;

THENCE N 13°57' W, a distance of 5272 feet to a point in the south right-of-way line of East County Road 120 and being an ell corner of this tract;
THENCE N 75°41' E with the south right-of-way line of said East County road 120, a distance of 14,750 feet to a point for an ell corner of this tract;
THENCE N 14°17' W, a distance of 5276 feet to a point near the northwest corner of Section 51, Block 37, T2S and being an ell corner of this tract;
THENCE N 74°54' E, a distance of 10,567 feet to a point in the east right-of-way line of Farm to Market Road 1379 and being the most easterly southeast corner of this tract;
THENCE N 13°59' W with the east right-of-way line of said Farm to Market Road 1379, a distance of 3955 feet to a point of deflection of this tract;
THENCE N 14°17' W, a distance of 20,565 feet to a point in the southeasterly right-of-way of Interstate Highway 20 and being the most easterly northeast corner of this tract;
THENCE S 59°40' W with the southeasterly right-of-way of said Interstate Highway 20, a distance of 22,345 feet to a point in the projection of North County Road 1120 and being a point of deflection of this tract;
THENCE N 14°09' W, a distance of 8118 feet to a point near the northeast Section 26, Block 38, T1S and being an ell corner of this tract;
THENCE S 75°33' W with the north line of said Section 26, a distance of 2741 feet to a point for an ell corner of this tract;
THENCE N 13°46' W, a distance of 3300 feet to a point for an ell corner of this tract;
THENCE S 75°45' W, a distance of 2696 feet to a point in the west line of Section 23 and the east line of Section 22, Block 38, T1S and being an ell corner of this tract;
THENCE S 14°37' E with the west line of said Section 23 and the east line of said Section 22, a distance of 668 feet to a point for an ell corner of this tract;
THENCE S 75°34' W, a distance of 7949 feet to a point near the middle of Section 21, Block 38, T1S and being an ell corner of this tract;
THENCE N 14°18' W, a distance of 2716 feet to a point in the north line of said Section 21 and being an ell corner of this tract;
THENCE S 75°23' W, a distance of 4294 feet to a point in the north line of Section 20, Block 38, T1S and being a point of deflection of this tract;
THENCE S 66°10' W, a distance of 3034 feet to a point in an easterly line of the Midland city limits and being the most northerly northwest corner of this tract;
THENCE S 14°33' E with said city limits, a distance of 5372 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°36' W with said city limits, a distance of 2511 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°34' E with said city limits, a distance of 180 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°36' W with said city limits, a distance of 835 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°34' E with said city limits, a distance of 3832 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 75°36' E with said city limits, a distance of 2208 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°34' W with said city limits, a distance of 1204 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°36' E with said city limits, a distance of 1138 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 15°14' E with said city limits, a distance of 645 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°36' E with said city limits, a distance of 4603 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°35' E with said city limits, a distance of 5122 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°37' E with said city limits, a distance of 659 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°36' E with said city limits, a distance of 2879 feet to a point in the northwesterly right-of-way line of Business Interstate Highway 20 (US Highway 80) and the most easterly southeast corner of said city limits also being a point of deflection of this tract;

THENCE N 59°41' E with the northwesterly right-of-way line of said Business Interstate Highway 20, a distance of 4829 feet to a point near the northwest corner of Section 40, Block 38, T1S and being a point of deflection of this tract;

THENCE S 14°24' E, a distance of 7260 feet to a point in the east line of Section 45, Block 38, T1S and being 1000 feet southerly of the southeasterly right-of-way line of Interstate Highway 20 and being a point of deflection of this tract;

THENCE S 45°05' W 1000 feet southerly and parallel to the southeasterly right-of-way line of said Interstate Highway 20, a distance of 6527 feet to a point in the north line of Section 5, Block 38, T2S and in the south right-of-way line of Farm to Market Road 307 also being a point of deflection of this tract;

THENCE N 76°37' E with the south right-of-way line of said Farm to Market Road 307, a distance of 2882 feet to a point near the northeast corner of a 320 acre City of Midland tract in Section 4, Block 38, T2S and being an ell corner of this tract;

THENCE S14°25' E with the east line of said 320 acre tract, a distance of 5252 feet to a point in the south line of said Section 4 and the north line of Section 9, Block 38, T2S and being an ell corner of this tract;

THENCE N 75°36' E with the north line of said Section 9, a distance of 2768 feet to a point near the northeast corner of said Section 9 and in the west right-of-way South County Road 1140 also being an ell corner of this tract;

THENCE S 14°36' E with the west right-of-way line of said South County Road 1140, a distance of 5313 feet to a point in the north right-of-way line of East County Road 120 and being an ell corner of this tract;

THENCE S 75°56' W with the north right-of-way line of said East County Road 120, a distance of 5150 to a point in the northeasterly right-of-way line of State Highway 158 and being a point of deflection of this tract;

THENCE N 70°55' W with the northeasterly right-of-way line of said State Highway 158, a distance of 4453 to a point near the most southerly southwest corner of a 365.58 acre City of Midland tract as described in Volume 2308, Page 3, Official Public Records of Midland County and the southeast corner of Ralph H White tract also being a point of deflection of this tract;

THENCE N 15°31' W with the east line of said Ralph H White tract and a west line of said City of Midland Tract, a distance of 732 feet to a point near the northeast corner of said Ralph H White tract and being a point of deflection of this tract;

THENCE N 70°36' W with the north line of said Ralph H White tract, a distance of 171 feet to a point near the northwest corner of said Ralph H White tract and in the east line of a 1.00 acre City of Midland tract as described in Volume 2308, Page 3, Official Public Records of Midland County and being a point of deflection of this tract;

THENCE S 15°31' E with the west line of said Ralph H White tract and the east line of said 1.00 acre City of Midland tract, a distance of 733 feet to a point in the northeasterly right-of-way line of said State Highway 158 and being a point of deflection of this tract;

THENCE N 70°55' W with the south line of said 1.00 acre City of Midland tract and the northeasterly right-of-way line of said State Highway 158, a distance of 415 feet to the southwest corner of said 1.00 acre City of Midland tract and being a point of deflection of this tract;

THENCE N 15°31' W with the west line of said 1.00 acre City of Midland tract, a distance of 1252 feet to the northwest corner of said 1.00 acre City of Midland and being a point of deflection of said 365.58 acre City of Midland tract also being a point of deflection of this tract;

THENCE S 75°57' W with a south line of said 365.58 acre City of Midland tract, a distance of 1419 feet to a point in the west line of Section 8, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°10' W with the west line of said Section 8, a distance of 1274 feet to a point near the northwest corner of said Section 8 and being an ell corner of this tract;

THENCE N 75°49' E with the north line of said Section 8, a distance of 36 feet to a point near the southeast corner of Section 6, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°12' W with the east line of said Section 6, a distance of 2124 feet to a point 1000 feet southerly of the southeasterly right-of-way line of said Interstate Highway 20 and being a point of deflection of this tract;

THENCE S 44°40' W southerly and parallel to the southeasterly right-of-way line of said Interstate Highway 20, a distance of 3968 feet to a point in the Midland city limits and being a point of deflection of this tract;

THENCE S 14°09' E with said city limits, a distance of 611 feet to the most southerly southeast corner of said city limits and being an ell corner of this tract;

THENCE S 75°32' W with the south line of said city limits, a distance of 10,595 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°23' E with the said city limits, a distance of 750 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°29' W with said city limits, a distance of 677 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°32' E with said city limits, a distance of 781 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°24' W with said city limits, a distance of 1675 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°23' W with said city limits, a distance of 1041 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°29' W with said city limits, a distance of 1000 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°23' W said city limits, a distance of 500 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°37' W with said city limits, a distance of 3137 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°18' E with said city limits, a distance of 570 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°42' W with said city limits, a distance of 1660 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°18' W with said city limits, a distance of 567 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°37' W with said city limits, a distance of 3390 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 15°02' E with said city limits, a distance of 709 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 74°54' W with said city limits, a distance of 1040 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 15°03' E with said city limits, a distance of 90 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°34' W with said city limits, a distance of 1064 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°40' W with said city limits, a distance of 817 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°44' W with said city limits, a distance of 559 feet to a point of curvature of said city limits and this tract;
THENCE around a curve to the left in a southwesterly direction and with said city limits, said curve having a radius length of 10,509 feet, a delta angle of 16°04', an arc length of 2947 feet and a chord length of 2937 feet bearing S 67°42" W to a point of tangency of said city limits and this tract;
THENCE S 59°40' W with said city limits, a distance of 6362 feet to the Point of Beginning, containing approximately 54,050 acres of land, more or less.
Bearings, distances and coordinates are relative to the Texas Coordinate System, 1983 NAD, Central Zone based on City of Midland's G.I.S Digital Map.

SECTION _____. (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, one of the required recipients, 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, the lieutenant governor, and the 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 _____. (a) Section 9016.111, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 9016, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 9016.111 to read as follows:

Sec. 9016.111. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

The amendment to **HB 3111** was read.

Senator Uresti offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Amendment No. 1 by Seliger to **HB 3111** as follows:

(1) At the end of added Subdivision (1), Section 9016.1111, Special District Local Laws Code (on page 6 of the amendment, line 28), strike "or".

(2) At the end of added Subdivision (2), Section 9016.1111, Special District Local Laws Code (on page 6 of the amendment, line 30), between "2011" and the period, insert the following:

; or

(3) outside the county

The amendment to Floor Amendment No. 1 to **HB 3111** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Ogden.

Question recurring on the adoption of Floor Amendment No. 1 to **HB 3111**, the amendment as amended was adopted by the following vote: Yeas 29, Nays 1.

Nays: West.

Absent-excused: Ogden.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3111** by adding the following SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subsection (b), Section 431.102, Transportation Code, is amended to read as follows:

(b) The property of a local government corporation and a transaction to acquire the property is exempt from taxation in the same manner as a corporation created under Chapter 394, Local Government Code, except that property of a local government corporation created by a municipal power agency that was created under Subchapter C, Chapter 163, Utilities Code, is not exempt from ad valorem taxation if the property is located outside of the boundaries of each of the municipalities that created the municipal power agency.

The amendment to **HB 3111** was read.

POINT OF ORDER

Senator West raised a point of order that Floor Amendment No. 3 to **HB 3111** was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator West withdrew the point of order.

Senator Seliger withdrew Floor Amendment No. 3.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 3111** by adding the following SECTIONS and renumbering subsequent SECTIONS accordingly:

WHEREAS, William James Stroman, Jr., individually and as the independent executor of the estate of William James Stroman and attorney-in-fact for Cleo Lane Stroman (collectively referred to as "Stroman"), alleges that:

(1) the State of Texas, through the board of regents of The University of Texas System ("the board"), owns university blocks 23, 24, and 26 ("university lands") located in Pecos County, Texas, and exercises sole and exclusive management and control of the lands set aside and appropriated to or acquired by the permanent university fund, which was created and is governed by Sections 10, 11, 15, and 18, Article VII, Texas Constitution;

(2) Stroman owns property adjoining the west line of the university lands, referred to as the Stroman Ranch;

(3) during the year 2008, the board began removing a fence located on or about the true boundary of the university lands and began constructing a new fence west of the true boundary of the university lands and entered the Stroman Ranch without consent and staked a new fence line west of the true boundary of the university lands;

(4) the board informed Stroman that it would be constructing a new fence on the new staked fence line and stated that the location of the new fence was based on a survey performed by Frank F. Friend, the field notes of which were filed in the General Land Office in 1939;

(5) the university lands were originally surveyed in 1879 by R. M. Thomson, and Friend later resurveyed the university lands in 1936, purportedly under the authority of Section 66.41, Education Code, which called for lands to be resurveyed when it was impracticable to establish lines and corners as originally surveyed;

(6) the Friend survey placed the western boundary of the university lands west of the previously established line and clearly on the Stroman Ranch;

(7) Stroman informed the board of the error in the location of the western boundary line; however, the board did not correct the error and stated that the board disputed Stroman's claim of ownership;

(8) in an attempt to resolve the dispute, Stroman hired J. Stan Piper, a licensed state land surveyor, to establish the proper western boundary of the university lands, and Piper located the correct boundary between the university lands and the Stroman Ranch, based on the original 1879 R. M. Thomson survey and field notes, as well as subsequent surveys;

(9) Piper's conclusive findings, including locations of monuments from the original R. M. Thomson survey, establish the true boundary between the university lands and the Stroman Ranch and demonstrate that the Friend survey was unnecessary and did not establish the proper boundary; and

(10) the board intends to complete the fence along the incorrect boundary between the university lands and the Stroman Ranch, thereby trespassing on Stroman's property and denying Stroman access to the property; now, therefore, be it

RESOLVED by the Legislature of the State of Texas, That William James Stroman, Jr., individually and as the independent executor of the estate of William James Stroman and attorney-in-fact for Cleo Lane Stroman, is granted permission to sue the State of Texas and the board of regents of The University of Texas System subject to Chapter 107, Civil Practice and Remedies Code; and, be it further

RESOLVED, That Stroman may not seek recovery of monetary damages from the state, but may only seek a determination of the boundary of Stroman's property and a determination of Stroman's rights through a court order that fixes and determines the true boundary between the university lands and the Stroman Ranch; and, be it further

RESOLVED, That the suit authorized by this resolution may be brought in Pecos or Travis County; and, be it further

RESOLVED, That the relief awarded in the suit authorized by this resolution is limited to the relief authorized under Chapter 37, Civil Practice and Remedies Code, or Chapter 22, Property Code, or both; and, be it further

RESOLVED, That the secretary of the board of regents of The University of Texas System be served process as provided by Section 107.002(a)(3), Civil Practice and Remedies Code.

The amendment to **HB 3111** was read.

Senator Seliger withdrew Floor Amendment No. 4.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3111 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 3111 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3111** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

GUEST PRESENTED

Senator Estes was recognized and introduced to the Senate Dr. Kenneth Cooper.

The Senate welcomed its guest.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2396 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSHB 2396** at this time on its second reading:

CSHB 2396, Relating to the pledge of advanced transportation district sales and use taxes to certain bonds.

The motion prevailed.

Senators Birdwell and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell, Shapiro.

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2396 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2396** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

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

Nays: Birdwell, Shapiro.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

COMMITTEE SUBSTITUTE
HOUSE BILL 2173 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2173** at this time on its second reading:

CSHB 2173, Relating to the adoption of certain voting procedures and to certain elections, including procedures necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and to terms of certain elected officials.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2173** (senate committee printing) in SECTION 37 of the bill, in amended Section 172.082(c), Election Code (page 11, line 58), by striking "fourth Tuesday" and substituting "third Tuesday".

The amendment to **CSHB 2173** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

Senator Watson, on behalf of Senator Estes, offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2173** (senate committee printing) in SECTION 30 of the bill, by striking amended Section 171.0231(d), Election Code (page 10, lines 58-66) and substituting the following:

(d) A declaration of write-in candidacy must be filed not later than 6 [5] p.m. of the fifth [62nd] day after the date of the regular filing deadline for the general primary election [before general primary election day. However, if a candidate whose name is to appear on the ballot for the office of county chair or precinct chair dies or is declared ineligible after the third day before the date of the regular filing deadline prescribed by this subsection, a declaration of write in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 59th day before election day].

The amendment to **CSHB 2173** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Ogden.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 3

1) Amend **CSHB 2173**, SECTION 43, Subsection (e), Section 11.059, Education Code, to read as follows:

(e) Not later than December 31, 2011 [~~2007~~], the board of trustees may adopt a resolution changing the length of the terms of its trustees. The resolution must provide for a term of either three or four years and specify the manner in which the transition from the length of the former term to the modified term is made. "The resolution must provide for staggered terms." The transition must begin with the first regular election for trustees that occurs after January 1, 2012 [~~2008~~], and a trustee who serves on that date shall serve the remainder of that term. This subsection expires January 1, 2017 [~~2013~~].

The amendment to **CSHB 2173** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Ogden.

Senator Van de Putte temporarily postponed further consideration of **CSHB 2173**.

Question — Shall **CSHB 2173** as amended be passed to third reading?

GUEST PRESENTED

Senator Huffman was recognized and introduced to the Senate Harris County District Attorney Pat Lykos.

The Senate welcomed its guest.

COMMITTEE SUBSTITUTE HOUSE BILL 2408 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2408** at this time on its second reading:

CSHB 2408, Relating to title insurance.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 2408 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2408** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1371 ON SECOND READING**

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1371** at this time on its second reading:

CSHB 1371, Relating to vehicle parking requirements in certain municipal housing authority communities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1371 ON THIRD READING**

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1371** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**VOTE RECONSIDERED ON
HOUSE BILL 2277**

On motion of Senator Williams and by unanimous consent, the vote by which **HB 2277** was finally passed was reconsidered:

HB 2277, Relating to life settlements and the sale, exchange, or replacement of life insurance and annuity contracts.

Question — Shall **HB 2277** be finally passed?

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 2277** on third reading as follows:

(1) In the SECTION that adds Chapter 1111A, Insurance Code, in added Section 1111A.002(18)(K), Insurance Code (Senate Floor Amendment No. 1, by Carona, page 10, lines 13 - 14), strike "Section 230.144A," and the substitute "Sections 230.501 and 230.144A, respectively,".

(2) In the SECTION that adds Chapter 1111A, Insurance Code, in added Section 1111A.025(1), Insurance Code (Senate Floor Amendment No. 1, by Carona, page 37, line 24), strike "541,".

The amendment to **HB 2277** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Absent-excused: Ogden.

On motion of Senator Williams and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

HB 2277 as again amended was again finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1942 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSHB 1942** at this time on its second reading:

CSHB 1942, Relating to bullying in public schools.

The motion prevailed.

Senators Birdwell, Nelson, and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell, Nelson, Patrick.

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1942 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1942** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

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

Nays: Birdwell, Nelson, Patrick.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

GUESTS PRESENTED

Senator Whitmire was recognized and introduced to the Senate the parents of Asher Brown, Amy and David Truong.

The Senate welcomed its guests.

SENATOR ANNOUNCED PRESENT

Senator Ogden, who had previously been recorded as "Absent-excused," was announced "Present."

RECESS

On motion of Senator Whitmire, the Senate at 1:26 p.m. recessed until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:25 p.m. and was called to order by President Pro Tempore Ogden.

BILLS AND RESOLUTION SIGNED

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

SB 860, SB 882, SB 896, SB 910, SB 953, SB 992, SB 1047, SB 1057, SB 1154, SB 1187, SB 1208, SB 1248, SB 1295, SB 1311, SB 1352, SB 1410, SB 1414, SB 1578, SB 1598, SB 1660, SB 1667, SB 1668, SB 1669, SB 1687, SB 1692, SB 1719, SB 1755, SB 1831, SCR 57.

**SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)**

Senator Eltife moved to suspend Senate Rule 5.14(a) to extend the time to allow Members to place bills and resolutions on the Intent Calendar until 6:00 p.m. today.

The motion prevailed without objection.

HOUSE BILL 3722 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **HB 3722** at this time on its second reading:

HB 3722, Relating to the boater education program of the Parks and Wildlife Department.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Birdwell, Fraser, Harris, Nichols, Shapiro.

The bill was read second time and was passed to third reading by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

HOUSE BILL 3722 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3722** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Birdwell, Fraser, Harris, Nichols, Shapiro.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1568 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1568** at this time on its second reading:

CSHB 1568, Relating to the authority of certain local governmental entities in certain populous counties to appoint, contract for, or employ physicians.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1568 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1568** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1758 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1758** at this time on its second reading:

CSHB 1758, Relating to the creation of the Pilot Knob Municipal Utility District No. 3; providing authority to impose a tax and issue bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1758 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1758** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate a City Center Health Careers delegation.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2207 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2207** at this time on its second reading:

CSHB 2207, Relating to the authority of the board of trustees to set rates for certain municipal utility systems.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2207** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. (a) Subsection (a), Section 1502.056, Government Code, is amended to read as follows:

(a) If the revenue of a utility system, park, or swimming pool secures the payment of public securities issued or obligations incurred under this chapter, each expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to provide efficient service, and each proper item of expense, is a first lien against that revenue. For a municipality with a population of more than one million but less than two million, the first lien against the revenue of a municipally owned [~~electric or gas~~] utility system that secures the payment of public securities issued or obligations incurred under this chapter also applies to funding, as a necessary operations expense, for a bill payment assistance program for utility system customers who have been threatened with disconnection from service for nonpayment of bills and who have been determined by the municipality to be low-income customers.

(b) Notwithstanding any other provision of this Act, this section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2011.

The amendment to **CSHB 2207** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2207 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2207 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2207** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2560 ON SECOND READING

Senator Estes moved to suspend the regular order of business to take up for consideration **HB 2560** at this time on its second reading:

HB 2560, Relating to transporting a foster child in a vehicle where a handgun is in the possession of a foster parent licensed to carry a concealed handgun.

The motion prevailed.

Senator Rodriguez asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2560**, in SECTION 1 of the bill (senate committee report page 1, lines 18-19) by striking "in the possession and control" and substituting "concealed on the person".

The amendment to **HB 2560** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2560 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Rodriguez.

HOUSE BILL 2560 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2560** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Rodriguez.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 33 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 33** at this time on its second reading:

HB 33, Relating to measures to increase the affordability of textbooks used for courses at public or private institutions of higher education.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 33 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 33** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1228 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSHB 1228** at this time on its second reading:

CSHB 1228, Relating to payment and collection of assessments and other charges owed to a property owners' association and foreclosure of a property owners' association assessment lien.

The motion prevailed.

Senator Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1228** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 209.0062(c), Property Code (page 1, line 34), strike "is not required to" and substitute "may not".

(2) In SECTION 2 of the bill, in added Section 209.0062(c), Property Code (page 1, line 36), strike "plan or" and substitute "plan. The association is not required".

The amendment to **CSHB 1228** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1228 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Nelson.

COMMITTEE SUBSTITUTE HOUSE BILL 1228 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1228** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 1812 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1812** at this time on its second reading:

HB 1812, Relating to the type of newspaper required for publication of notice in certain counties.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1812 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1812** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2173 ON SECOND READING

The President Pro Tempore laid before the Senate **CSHB 2173** sponsored by Senator Van de Putte on its second reading. The bill had been read second time, amended, and further consideration temporarily postponed:

CSHB 2173, Relating to the adoption of certain voting procedures and to certain elections, including procedures necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and to terms of certain elected officials.

Question — Shall **CSHB 2173** as amended be passed to third reading?

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2173** (senate committee printing) in SECTION 5, Section 41.0052, Election Code (page 7, line 31) of the bill, after "(a)" insert "or provide for the election of all members of the governing body at the same election" and adjust accordingly.

The amendment to **CSHB 2173** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 2173** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 101.001, Election Code, is amended to read as follows:

Sec. 101.001. ELIGIBILITY. (a) A person is eligible for early voting by mail as provided by this chapter if:

(1) the person is qualified to vote in this state or, if not registered to vote in this state, would be qualified if registered; and

(2) the person is:

(A) a member of the armed forces of the United States, or the spouse or a dependent of a member;

(B) a member of the merchant marine of the United States, or the spouse or a dependent of a member; or

(C) domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia.

(b) Notwithstanding Subsection (a) and Chapter 114, a person who indicates on a federal postcard application that the person is a United States citizen residing outside the United States indefinitely is entitled to vote a full ballot as provided by this chapter if the person is otherwise eligible to vote under this chapter and is a registered voter at the address contained on the application.

SECTION _____. Section 101.004, Election Code, is amended by adding Subsection (n) to read as follows:

(n) The early voting clerk shall provide notice to a person who indicates on a federal postcard application that the person is a United States citizen residing outside the United States indefinitely, other than a person described by Section 101.001(b), that as a result of the person's indication, the person is only eligible to vote a federal ballot as provided by Chapter 114. The secretary of state shall prescribe the form and manner of the notice provided under this subsection.

SECTION _____. Chapter 101, Election Code, is amended by adding Section 101.014 to read as follows:

Sec. 101.014. NOTICE ON COUNTY WEBSITE FOR CITIZENS RESIDING OUTSIDE OF UNITED STATES INDEFINITELY. If a county maintains an Internet website to provide information on voting, the website must include information that describes the effects on the ballot a person will receive under state law if the person indicates on a federal postcard application that the person is a United States citizen residing outside the United States indefinitely.

SECTION _____. Section 114.002, Election Code, is amended to read as follows:

Sec. 114.002. ELIGIBILITY. A United States citizen residing [~~dwelling~~] outside the United States is eligible to vote a federal ballot by mail if:

(1) the citizen's most recent domicile in the United States was in this state and the citizen is residing outside the United States indefinitely [~~citizen's intent to return to this state is uncertain~~];

(2) the citizen would be eligible for registration as a voter in this state if a resident; and

(3) the citizen is not eligible to vote on federal offices in any other state.

SECTION _____. The change in law made by this Act applies to a federal postcard application that requests a ballot for an election that is held on or after the effective date of this Act.

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

The amendment to **CSHB 2173** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 2173** by inserting an appropriately numbered SECTION to read as follows:

SECTION _____. Section 41.0053, Election Code, is repealed.

The amendment to **CSHB 2173** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2173 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 2173 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2173** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Eltife in Chair)

HOUSE BILL 3268 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3268** at this time on its second reading:

HB 3268, Relating to permits for air contaminant emissions of stationary natural gas engines used in combined heating and power systems.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3268** as follows:

On page 1, line 18, after "vehicle" insert "as defined by Section 382.003(9-a), Health and Safety Code."

The amendment to **HB 3268** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3268 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3268 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3268** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1932 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1932** at this time on its second reading:

HB 1932, Relating to the powers and duties of the Williamson-Liberty Hill Municipal Utility District.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1932 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1932** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3324 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3324** at this time on its second reading:

CSHB 3324, Relating to the operations and monitoring of fusion centers in this state.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3324 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3324** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2784 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2784** at this time on its second reading:

CSHB 2784, Relating to the refund policy for courses and programs at career schools and colleges.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2784** (senate committee printing) in SECTION 1 of the bill, by striking amended Section 132.061(f), Education Code (page 2, lines 57 through 67), and substituting the following:

(f) A career school or college shall record a grade of "incomplete" for a student who withdraws during the portion of a course or program for which the student is not eligible to collect a refund under Subsection (b)(4) ~~[but is not entitled to a refund under Subsection (b)(4)(F)]~~ if the student requests the grade at the time the student withdraws and the student withdraws for an appropriate reason unrelated to the student's academic status. A student who receives a grade of incomplete may re-enroll

in the course or program during the 12-month period following the date the student withdraws and complete those incomplete subjects without payment of additional tuition for that portion of the course or program.

The amendment to **CSHB 2784** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2784 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 2784 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2784** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 826 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 826** at this time on its second reading:

HB 826, Relating to facilitating the enrollment in or transfer to a public school district of a student in the conservatorship of the state.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 826 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 826** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 3161 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3161** at this time on its second reading:

CSHB 3161, Relating to limited purpose subsidiary life insurance companies.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3161 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3161** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1821 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1821** at this time on its second reading:

CSHB 1821, Relating to certain information or guidelines provided by or concerning a property owners' association or concerning subdivisions that are subject to restrictive covenants.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1821** (senate committee printing) as follows:

(1) In SECTION 7 of the bill, in added Section 209.0062(d), Property Code (page 4, line 32), strike "is not required to" and substitute "may not".

(2) In SECTION 7 of the bill, in added Section 209.0062(d), Property Code (page 4, line 34), strike "plan or" and substitute "plan. The association is not required".

The amendment to **CSHB 1821** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1821** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 221, Property Code, is amended by adding Section 221.078 to read as follows:

Sec. 221.078. APPLICABILITY OF CERTAIN LAWS TO TIMESHARE PROPERTY OR TIMESHARE ASSOCIATION. (a) Section 207.006, as added by H.B. No. 1821, Acts of the 82nd Legislature, Regular Session, 2011, does not apply to a timeshare property or timeshare association.

(b) To the extent the following provisions apply to a timeshare property or timeshare association, the provisions apply only as the provisions existed immediately before the effective date of H.B. No. 1821, Acts of the 82nd Legislature, Regular Session, 2011, or any other Act of the 82nd Legislature, Regular Session, 2011:

- (1) Section 5.012;
- (2) Section 202.006; and
- (3) Section 207.003.

The amendment to **CSHB 1821** was read and failed of adoption by the following vote: Yeas 14, Nays 15.

Yeas: Davis, Deuell, Duncan, Ellis, Eltife, Fraser, Gallegos, Hinojosa, Lucio, Rodriguez, Seliger, Van de Putte, Wentworth, West.

Nays: Birdwell, Carona, Estes, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Shapiro, Uresti, Watson, Whitmire, Zaffirini.

Absent: Ogden, Williams.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1821 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1821 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1821** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Ogden was granted leave of absence on account of important business.

HOUSE BILL 530 ON SECOND READING

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 530** at this time on its second reading:

HB 530, Relating to the definition of local law enforcement authority for purposes of the sex offender registration program.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 530 ON THIRD READING

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 530** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 3278 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3278** at this time on its second reading:

CSHB 3278, Relating to membership of the commissioner of education and the Texas Education Agency in certain advisory committees, commissions, task forces, and other similar entities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 3278 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3278** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1335 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSHB 1335** at this time on its second reading:

CSHB 1335, Relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.

The motion prevailed.

Senator Nichols asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1335** (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Chapter 29, Education Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. INTRA-DISTRICT SPECIAL SERVICES TRANSFER PROGRAM

Sec. 29.501. DEFINITIONS. In this subchapter:

(1) "Parent" includes a guardian, custodian, or other person with authority to act on behalf of a student.

(2) "Pervasive developmental disorder" includes, as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders:

(A) autism;

(B) Asperger's syndrome;

(C) Rett's syndrome;

(D) childhood disintegrative disorder; and

(E) a pervasive developmental disorder, not otherwise specified.

(3) "Program" means the special services transfer program for eligible students created by this subchapter.

Sec. 29.502. SPECIAL SERVICES TRANSFER PROGRAM. (a) An eligible student under Section 29.503 may, at the option of the student's parent, attend any public school in the district in which the student resides that provides a program appropriate to the student's needs.

(b) Each school year, a school district shall provide written notice of the opportunity to transfer under this subchapter to the parent of a student who is eligible to participate in the program under Section 29.503.

Sec. 29.503. ELIGIBLE STUDENT. (a) A student is eligible to participate in the program if the student:

(1) is receiving public school services;

(2) is eligible to participate in a school district's special education program under Section 29.003; and

(3) has been diagnosed by a medical doctor with:

(A) a pervasive developmental disorder; or

(B) an intellectual disability.

(b) Each school year, the school district and the student's parent shall review:

(1) the continued applicability of the student's original diagnosis; and

(2) the student's continued eligibility for participation in the program.

(c) If a parent disagrees with a school district's decision that a student does not initially meet or does not continue to meet the requirements for eligibility under Subsection (a), the parent may seek a second diagnosis by a second medical doctor. The parent is responsible for obtaining and paying the costs of a second diagnosis. Not later than the 30th day following the date of the second diagnosis as provided by this subsection, the school district and the parent shall meet to discuss the results of the second diagnosis. The second diagnosis determines whether the student meets the eligibility requirements under Subsection (a).

Sec. 29.504. ADMISSIONS. (a) A campus that has more applications for attendance under this subchapter than available positions must fill the available positions in the order the campus receives the applications.

(b) In determining the number of available positions, a campus may consider staff needs and facility space.

Sec. 29.505. PROGRAM COMPLIANCE. The agency may withhold funding from any district that violates this subchapter or a rule adopted under this subchapter. Agency decisions are final and may not be appealed.

Sec. 29.506. RULES. The commissioner may adopt rules to implement this subchapter.

SECTION __. (a) The Texas Education Agency shall make the intra-district special services program under Subchapter M, Chapter 29, Education Code, as added by this Act, available for participation beginning with the 2012-2013 academic school year.

(b) As soon as practicable, the commissioner of education shall adopt and implement rules necessary for the administration of the program.

The amendment to **CSHB 1335** was read and was adopted by the following vote: Yeas 17, Nays 13.

Yeas: Davis, Deuell, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Lucio, Patrick, Rodriguez, Seliger, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Birdwell, Carona, Duncan, Estes, Fraser, Harris, Huffman, Jackson, Nelson, Nichols, Shapiro, Wentworth, Williams.

Absent-excused: Ogden.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1335** (senate committee printing) as follows:

Insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS appropriately.

SECTION __. Section 29.005, Education Code, is amended by adding Subsection (f) to read as follows:

(f) The written statement of a student's individualized education program may be required to include only information included in the model form developed under Section 29.0051(a).

SECTION __. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.0051 to read as follows:

Sec. 29.0051. MODEL FORM. (a) The agency shall develop a model form for use in developing an individualized education program under Section 29.005(b). The form must be clear, concise, well organized, and understandable to parents and educators and may include only:

(1) the information included in the model form developed under 20 U.S.C. Section 1417(e)(1);

(2) a state-imposed requirement relevant to an individualized education program not required under federal law; and

(3) the requirements identified under 20 U.S.C. Section 1407(a)(2).

(b) The agency shall post on the agency's Internet website the form developed under Subsection (a).

(c) A school district may use the form developed under Subsection (a) to comply with the requirements for an individualized education program under 20 U.S.C. Section 1414(d).

SECTION __. Not later than December 1, 2011, the Texas Education Agency shall develop the model form required under Section 29.0051, Education Code, as added by this Act.

The amendment to **CSHB 1335** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Ogden.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1335 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Nichols.

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1335 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1335** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Nichols.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 1969 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1969** at this time on its second reading:

HB 1969, Relating to the applicability of commercial fertilizer regulations to a substance containing animal manure or plant remains.

The bill was read second time.

Senator Nichols offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1969** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 63, Agriculture Code, is amended by adding Section 63.0025 to read as follows:

Sec. 63.0025. CERTAIN ANALYSES NOT GUARANTEE OF NUTRIENT LEVELS. A representative laboratory analysis conducted for purposes of fulfilling a requirement established by a federal agency or a state agency other than the department may not:

(1) be considered a guarantee of nutrient levels for:

(A) fertilizer material;

(B) mixed fertilizer;

(C) manipulated manure; or

(D) specialty fertilizer; or

(2) be used to determine whether animal manure, plant remains, or mixtures of those substances are commercial fertilizers under Section 63.002(c).

The amendment to **HB 1969** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

On motion of Senator Nichols and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1969 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 1969 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1969** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2911 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2911** at this time on its second reading:

HB 2911, Relating to guaranteed student loans and alternative education loans.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 2911 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2911** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1616 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1616** at this time on its second reading:

CSHB 1616, Relating to the reporting of political contributions, political expenditures, and personal financial information, and to complaints filed with the Texas Ethics Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

Senator Estes temporarily postponed further consideration of **CSHB 1616**.

HOUSE BILL 2707 ON SECOND READING

Senator Davis moved to suspend the regular order of business to take up for consideration **HB 2707** at this time on its second reading:

HB 2707, Relating to the holding of an interest in certain alcoholic beverage licenses, permits, or premises by certain persons whose alcoholic beverage license or permit has been revoked.

The motion prevailed.

Senators Nelson and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Hegar, Nelson, Shapiro.

Absent-excused: Ogden.

HOUSE BILL 2707 ON THIRD READING

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2707** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

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

Nays: Nelson, Shapiro.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3.

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nichols, Patrick, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Nelson, Shapiro.

Absent-excused: Ogden.

HOUSE BILL 2093 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **HB 2093** at this time on its second reading:

HB 2093, Relating to the operation and regulation of certain consolidated insurance programs.

The motion prevailed.

Senators Birdwell, Nichols, Patrick, and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2093** (Senate committee report) as follows:

(1) In SECTION 1 (page 1) in added Section 151.001, Insurance Code, line 27, strike "single-family home, duplex, triplex, or quadruplex" and substitute "single family house, townhouse, duplex, or land development directly related thereto".

(2) In SECTION 1 (page 1) in added Section 151.001, Insurance Code, strike lines 32-37 and substitute the following and renumber any subsequent subdivisions and update any cross-references accordingly:

(4) "Claim" includes a loss or liability for a claim, damage, expense, or governmentally imposed fine, penalty, administrative action, or other action.

(5) "Construction contract" means a contract, subcontract, or agreement, or a performance bond assuring the performance of any of the foregoing, entered into or made by an owner, architect, engineer, contractor, construction manager, subcontractor, supplier, or material or equipment lessor for the design, construction, alteration, renovation, remodeling, repair, or maintenance of, or for the furnishing of material or equipment for, a building, structure, appurtenance, or other improvement to or on public or private real property, including moving, demolition, and excavation connected with the real property. The term includes an agreement to which an architect, engineer, or contractor and an owner's lender are parties regarding an assignment of the construction contract or other modifications thereto.

(6) "Indemnitor" means a party to a construction contract that is required to provide indemnification or additional insured status to another party to the construction contract or to a third party.

(7) "Insurer" has the meaning assigned by Section 560.001.

(3) In SECTION 1 (page 1, between lines 48 and 49), in added Chapter 151, Insurance Code, insert the following new Subchapter C and renumber and reletter any subsequent sections and subchapters and update any cross-references accordingly:

SUBCHAPTER C. REQUIREMENTS RELATED TO INDEMNIFICATION

Sec. 151.101. APPLICABILITY. (a) This subchapter applies to a construction contract for a construction project for which an indemnitor is provided or procures insurance subject to:

(1) this chapter; or

(2) Title 10.

(b) Subsection (a) applies regardless of whether the insurance is provided or procured before or after execution of the contract.

Sec. 151.102. AGREEMENT VOID AND UNENFORCEABLE. Except as provided by Section 151.103, a provision in a construction contract, or in an agreement collateral to or affecting a construction contract, is void and unenforceable as against public policy to the extent that it requires an indemnitor to indemnify, hold harmless, or defend a party, including a third party, against a claim caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of contract of the indemnitee, its agent or employee, or any third party under the control or supervision of the indemnitee, other than the indemnitor or its agent, employee, or subcontractor of any tier.

Sec. 151.103. EXCEPTION FOR EMPLOYEE CLAIM. Section 151.102 does not apply to a provision in a construction contract that requires a person to indemnify, hold harmless, or defend another party to the construction contract or a third party against a claim for the bodily injury or death of an employee of the indemnitor, its agent, or its subcontractor of any tier.

Sec. 151.104. UNENFORCEABLE ADDITIONAL INSURANCE PROVISION. (a) Except as provided by Subsection (b), a provision in a construction contract that requires the purchase of additional insured coverage, or any coverage endorsement, or provision within an insurance policy providing additional insured coverage, is void and unenforceable to the extent that it requires or provides coverage the scope of which is prohibited under this subchapter for an agreement to indemnify, hold harmless, or defend.

(b) This section does not apply to a provision in an insurance policy, or an endorsement to an insurance policy, issued under a consolidated insurance program to the extent that the provision or endorsement lists, adds, or deletes named insureds to the policy.

Sec. 151.105. EXCLUSIONS. This subchapter does not affect:

(1) an insurance policy, including a policy issued under an owner-controlled or owner-sponsored consolidated insurance program or a contractor-controlled or contractor-sponsored consolidated insurance program, except as provided by Section 151.104;

(2) a cause of action for breach of contract or warranty that exists independently of an indemnity obligation;

(3) indemnity provisions contained in loan and financing documents, other than construction contracts to which the contractor and owner's lender are parties as provided under Section 151.001(5);

(4) general agreements of indemnity required by sureties as a condition of execution of bonds for construction contracts;

(5) the benefits and protections under the workers' compensation laws of this state;

(6) the benefits or protections under the governmental immunity laws of this state;

(7) agreements subject to Chapter 127, Civil Practices and Remedies Code;

(8) a license agreement between a railroad company and a person that permits the person to enter the railroad company's property as an accommodation to the person for work under a construction contract that does not primarily benefit the railroad company;

(9) an indemnity provision pertaining to a claim based upon copyright infringement;

(10) an indemnity provision in a construction contract, or in an agreement collateral to or affecting a construction contract, pertaining to:

(A) a single family house, townhouse, duplex, or land development directly related thereto; or

(B) a public works project of a municipality; or

(11) a joint defense agreement entered into after a claim is made.

(4) In SECTION 1, in added Section 151.002, Insurance Code (page 1, line 41), strike "this chapter" and substitute "Subchapter B".

(5) Insert the following appropriately numbered SECTION and renumber any subsequent SECTIONS accordingly:

SECTION ____ . Section 2252.902, Government Code, is repealed.

(6) In SECTION 2, line 52, between the period and "Chapter", insert "(a)".

(7) In SECTION 2, between lines 58 and 59, insert the following:

(b) The changes in law made by this Act apply only to an original construction contract with an owner of an improvement or contemplated improvement that is entered into on or after the effective date of this Act. If an original construction contract with an owner of an improvement or contemplated improvement is entered into on or after the effective date of this Act, the changes in law made by this Act apply to a related subcontract, purchase order contract, personal property lease agreement, and insurance policy. If an original construction contract with an owner of an improvement or contemplated improvement is entered into before the effective date of this Act, that original construction contract and a related subcontract, purchase order contract, personal property lease agreement, and insurance policy are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(8) In SECTION 3, line 59, strike "September 1, 2011" and substitute "January 1, 2012".

The amendment to **HB 2093** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Birdwell, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Shapiro, Uresti.

Absent-excused: Ogden.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2093 as amended was passed to third reading by the following vote: Yeas 18, Nays 11.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Lucio, Rodriguez, Seliger, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Birdwell, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Shapiro, Uresti.

Absent: Williams.

Absent-excused: Ogden.

HOUSE BILL 1839 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1839** at this time on its second reading:

HB 1839, Relating to excluding a provider of recreational classes that do not lead to an educational credential from regulation as a career school or college.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 1839 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1839** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 411 ON SECOND READING**

Senator Deuell moved to suspend the regular order of business to take up for consideration **CSHB 411** at this time on its second reading:

CSHB 411, Relating to the confidentiality of newborn screening information.

The motion prevailed.

Senator Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 411** (senate committee printing) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 15), strike "and (i)" and substitute "(i), and (j)".

(2) In SECTION 1 of the bill, strike amended Sections 33.017(b) and (c), Health and Safety Code (page 1, line 35, through page 2, line 27), and substitute the following:

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

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

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

(3) as authorized by court order;

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

(5) to public health programs of the department for public health research purposes, provided that the disclosure is approved by:

(A) the commissioner or the commissioner's designee; and

(B) an institutional review board or privacy board of the department as authorized by the federal privacy requirements adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E;

(6) for purposes relating to review or quality assurance of the department's newborn screening under this chapter or the department's newborn screening program services under Subchapter C, provided that no disclosure occurs outside of the department's newborn screening program;

(7) for purposes related to obtaining or maintaining federal certification, including related quality assurance, for the department's laboratory, provided that no disclosure occurs outside of the department's newborn screening program; or

(8) for purposes relating to improvement of the department's newborn screening under this chapter or the department's newborn screening program services under Subchapter C, provided that the disclosure is approved by the commissioner or the commissioner's designee.

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

(1) statistical purposes;

(2) purposes related to obtaining or maintaining federal certification, including related review and ~~[approval, or]~~ quality assurance;

(A) for the department's laboratory that require disclosure outside of the department's newborn screening program; or

(B) for a public or private laboratory to perform newborn screening tests that are not part of inter-laboratory exchanges required for federal certification of the department's laboratory, provided that the disclosure is approved by the commissioner or the commissioner's designee; or

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

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

~~[(5)]~~ quality assurance purposes related to public health testing equipment and supplies, provided that the disclosure is approved by:

(A) the commissioner or the commissioner's designee [assessment is performed by a person who is not a laboratory]; and

(B) [only newborn screening specimens are disclosed; and

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

(3) In SECTION 1 of the bill, in added Section 33.017(c-1), Health and Safety Code (page 2, line 30), between "public health research purposes" and "if", insert "not described by Subsection (b)(5)".

(4) In SECTION 1 of the bill, in added Section 33.017(c-1)(1), Health and Safety Code (page 2, line 31), strike "a parent" and substitute "a parent, managing conservator, or guardian".

(5) In SECTION 1 of the bill, in added Section 33.017(e), Health and Safety Code (page 2, line 39), strike "Subsection (c)(4)" and substitute "Subsection (c)(3)".

(6) In SECTION 1 of the bill, in added Section 33.017(g), Health and Safety Code (page 2, line 53), strike "approves" and substitute "reviews a potential".

(7) In SECTION 1 of the bill, strike added Sections 33.017(h) and (i), Health and Safety Code (page 2, lines 56-66), and substitute the following:

(h) Nothing in this section affects the requirement that screening tests be performed under Section 33.011.

(i) If a parent, managing conservator, or guardian of a child consents to disclosure under this section:

(1) the parent, managing conservator, or guardian who consented to the disclosure may revoke the consent, in writing, at any time by using a form designated by the department; and

(2) the child may revoke the consent, in writing, at any time on or after the date the child attains the age of majority by using a form designated by the department.

(j) If a person revokes consent under Subsection (i), the department shall destroy any genetic material obtained from the child as provided by Section 33.0112.

(8) In SECTION 2 of the bill, strike Subsection (b) (page 3, lines 4-5) and substitute the following:

(b) The changes made to Sections 33.0111 and 33.0112, Health and Safety Code, as amended by this Act, and Section 33.017(c-1), as added by this Act, take effect June 1, 2012.

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

SECTION ____. The heading to Section 33.0111, Health and Safety Code, is amended to read as follows:

Sec. 33.0111. DISCLOSURE STATEMENT AND CONSENT.

SECTION ____. Section 33.0111, Health and Safety Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e), (f), and (g) to read as follows:

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

(1) that the department or a laboratory established or approved by the department under Section 33.016 may retain for use by the department or laboratory genetic material used to conduct the newborn screening tests and discloses how the material is managed and used subject to this section and Sections 33.0112 and 33.017; and

(2) that reports, records, and information obtained by the department under this chapter that do not identify a child or the family of a child will not be released for public health research purposes under Section 33.017(c-1) unless a parent, managing conservator, or guardian of the child consents to disclosure; and

(3) that newborn screening blood spots and associated data are confidential under law and may only be used as described by Section 33.017 ~~[that the parent, managing conservator, or guardian may limit the use of the genetic material by providing to the department in accordance with Section 33.0112 a written statement prohibiting the department or laboratory from retaining the genetic material or using the genetic material for any purpose other than the conduct of newborn screening tests authorized under this chapter].~~

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

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

~~[(2)] be [presented together with the written statement described by Subsection (a)(2)]~~ in a format that allows a parent, managing conservator, or guardian of a newborn child to consent to disclosure under Section 33.017(c-1) ~~[either~~

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

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

~~(2) [(3)] include instructions on how to complete the portions of the form described by Subdivision (1) [Subdivisions (2)(A) and (B)];~~

~~(3) [(4)] include the department's mailing address; and~~

~~(4) describe how [(5) be made available to] a parent, managing conservator, or guardian of a newborn child may obtain information regarding consent through alternative sources.~~

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

(e) The physician attending a newborn child or the person attending the delivery of a newborn child that is not attended by a physician shall submit any document required by the department.

(f) This section does not supersede the requirements imposed by Section 33.017.

(g) A reference in this section to Section 33.017 means Section 33.017 as added by Chapter 179 (H.B. 1672), Acts of the 81st Legislature, Regular Session, 2009.

SECTION ____ . Section 33.0112, Health and Safety Code, is amended to read as follows:

Sec. 33.0112. DESTRUCTION [STATEMENT PROHIBITING RETENTION] OF GENETIC MATERIAL. (a) The department shall destroy any genetic material obtained from a child under this chapter not later than the second anniversary of the date the department receives the genetic material unless a parent, managing conservator, or guardian of the child consents to disclosure under Section 33.017(c-1) [A parent, managing conservator, or guardian of a newborn child may file with the department a signed written statement prohibiting the department or a laboratory established or approved by the department from retaining any genetic material related to the newborn screening tests conducted under this chapter or using the genetic material for any purpose other than the conduct of the newborn screening tests. A parent, managing conservator, or guardian may file the written statement on a form provided by the department].

(b) The department shall destroy any genetic material obtained from a child under this chapter not later than the second anniversary of the date the department receives the genetic material if:

(1) a parent, managing conservator, or guardian of the child consents to disclosure under Section 33.017(c-1);

(2) the parent, managing conservator, or guardian who consented to the disclosure revokes the consent under Section 33.017(i); and

(3) the department receives the written revocation of consent under Section 33.017(i) not later than the second anniversary of the date the department received the genetic material [Not later than the 60th day after the department receives the written statement, the department or laboratory shall destroy the genetic material used in the screening tests].

(c) The department shall destroy any genetic material obtained from a child under this chapter not later than the 60th day after the date the department receives a written revocation of consent under Section 33.017(i) if:

(1) a parent, managing conservator, or guardian of the child consented to disclosure under Section 33.017(c-1);

(2) the parent, managing conservator, or guardian who consented to the disclosure or the child revokes the consent under Section 33.017(i); and

(3) the department receives the written revocation of consent later than the second anniversary of the date the department received the genetic material [An adult individual may file with the department a written statement instructing the department or a laboratory established or approved by the department to destroy any genetic material of the individual that is retained and used under this chapter].

(d) A reference in this section to Section 33.017 means Section 33.017 as added by Chapter 179 (H.B. 1672), Acts of the 81st Legislature, Regular Session, 2009.

The amendment to **CSHB 411** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 411** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subdivision (2), Section 47.001, Health and Safety Code, is amended to read as follows:

(2) "Birthing facility" means:

(A) a hospital licensed under Chapter 241 that offers obstetrical services ~~[and is located in a county with a population of more than 50,000]; [or]~~

(B) a birthing center licensed under Chapter 244;

(C) a children's hospital; or

(D) a facility, maintained or operated by this state or an agency of this state, that provides obstetrical services ~~[that is located in a county with a population of more than 50,000 and that has 100 or more births per year].~~

SECTION _____. Section 47.003, Health and Safety Code, is amended by amending Subsections (a), (c), (d), and (e) and adding Subsections (a-1) and (f) to read as follows:

(a) A birthing facility, through a program certified by the department under Section 47.004, shall perform, either directly or through a transfer agreement, ~~[offer the parents of a newborn]~~ a hearing screening ~~[for the newborn]~~ for the identification of hearing loss on each newborn or infant born at the facility before the newborn or infant is discharged from the facility unless:

(1) the parent declines the screening;

(2) the newborn or infant is transferred to another facility before the screening is performed; or

(3) the screening has previously been completed.

(a-1) The birthing facility [screening] shall inform the parents [be offered] during [the birth] admission that:

(1) the facility is required by law to screen a newborn or infant for hearing loss; and

(2) the parents may decline the screening[~~and the parents shall be informed that information may be provided to the department upon their written consent~~].

(c) Subject to Section 47.008, the [The] department shall [may] maintain data and information on each newborn or infant who receives a hearing screening under Subsection (a) [services under a program].

(d) The department shall ensure that intervention is available to families for a newborn or infant identified as having hearing loss and that the intervention is managed by state programs operating under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(e) The department shall ensure that the intervention described by Subsection (d) is available for a newborn or infant identified as having hearing loss not later than the sixth month after the newborn's or infant's birth and through the time the child is an infant unless the infant has been hospitalized since birth.

(f) If a newborn or an infant receives medical intervention services, including a hearing aid or cochlear implant, the intervention specialist shall report the results of the intervention to the department.

SECTION ____. Chapter 47, Health and Safety Code, is amended by adding Section 47.0031 to read as follows:

Sec. 47.0031. FOLLOW-UP SCREENING. (a) The program that performed the hearing screening under Section 47.003 shall provide the newborn's or infant's parents with the screening results. A birthing facility, through the program, shall offer a follow-up hearing screening to the parents of a newborn or infant who does not pass the screening, or refer the parents to another program for the follow-up hearing screening. The follow-up hearing screening should be performed not later than the 30th day after the date the newborn or infant is discharged from the facility.

(b) If a newborn or an infant does not pass the screening in a follow-up hearing screening, the program that performed the follow-up hearing screening on the newborn or infant shall:

(1) provide the newborn's or infant's parents with the screening results;

(2) assist in scheduling a diagnostic audiological evaluation for the newborn or infant, consistent with the most current guidelines in the Joint Committee on Infant Hearing Position Statement, or refer the newborn or infant to a licensed audiologist who provides diagnostic audiological evaluations for newborns or infants that are consistent with the most current guidelines in the Joint Committee on Infant Hearing Position Statement; and

(3) refer the newborn or infant to early childhood intervention services.

SECTION ____. Subsections (b) and (d), Section 47.004, Health and Safety Code, are amended to read as follows:

(b) In order to be certified, the program must:

- (1) provide hearing screening using equipment recommended by the department;
- (2) use appropriate staff to provide the screening;
- (3) maintain and report data electronically as required by the department;
- (4) distribute family, health care provider, and physician educational materials standardized by the department; ~~[and]~~
- (5) provide information, as recommended by the department, to the parents on follow-up services for newborns and infants who do not pass the [with abnormal] screening; and
- (6) be supervised by:
 - (A) a physician;
 - (B) an audiologist;
 - (C) a registered nurse; or
 - (D) a physician assistant [results].

(d) The department may renew the certification of a program on a periodic basis as established by board rule in order to ensure quality services to newborns, infants, and families.

SECTION ____ . Section 47.005, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) A birthing facility that operates a program shall distribute to the parents of each newborn or infant who is screened educational materials that are standardized by the department regarding screening results and follow-up care.

(b) A birthing facility that operates a program shall report screening results to:

- (1) the parents;
- (2) ~~[]~~ the newborn's or infant's attending physician, primary care physician, or other applicable health care provider; [] and
- (3) the department.

(d) The department may coordinate the diagnostic audiological evaluation required under Section 47.0031(b)(2). A diagnostic audiological evaluation must be completed on the newborn or infant:

- (1) not later than the third month after the newborn's or infant's birth unless the newborn or infant has been hospitalized since birth; or
- (2) upon referral by the newborn's or infant's primary care physician or other applicable health care provider.

(e) An audiologist who performs a diagnostic audiological evaluation under this chapter shall report the results of the evaluation to:

- (1) the parents;
- (2) the newborn's or infant's primary care physician or other applicable health care provider; and
- (3) the department under Section 47.007(b).

SECTION ____ . Section 47.007, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (d) through (h) to read as follows:

(b) Subject to Section 47.008, a ~~[A]~~ qualified hearing screening provider, hospital, health care provider, physician, audiologist, or intervention specialist shall [may] access the information management, reporting, and tracking system to provide information[, where available,] to the department and may obtain information from the department[, including information] relating to:

- (1) the results of each hearing screening performed under Section 47.003(a) or 47.0031(a);

(2) the results of each diagnostic audiological evaluation required under Section 47.0031(b)(2);

- (3) ~~(1)~~ infants who receive follow-up care;
- (4) ~~(2)~~ infants identified with hearing loss;
- (5) ~~(3)~~ infants who are referred for intervention services; and
- (6) ~~(4)~~ case level information necessary to report required statistics to:
 - (A) the Maternal and Child Health Bureau on an annual basis; and
 - (B) the federal Centers for Disease Control and Prevention.

(d) A birthing facility described by Subsection (a) shall report the resulting information in the format and within the time frame specified by the department.

(e) A qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who receives a referral from a program under this chapter shall:

(1) provide the services needed by the newborn or infant or refer the newborn or infant to a person who provides the services needed by the newborn or infant; and

(2) provide, with the consent of the newborn's or infant's parent, the following information to the department or the department's designee:

(A) results of follow-up care;

(B) results of audiologic testing of an infant identified with hearing loss; and

(C) reports on the initiation of intervention services.

(f) A qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who provides services to an infant who is diagnosed with hearing loss shall provide, with the consent of the infant's parent, the following information to the department or the department's designee:

(1) results of follow-up care;

(2) results of audiologic testing; and

(3) reports on the initiation of intervention services.

(g) A hospital that provides services under this chapter shall use the information management, reporting, and tracking system described by this section, access to which has been provided to the hospital by the department, to report, with the consent of the infant's parent, the following information to the department or the department's designee:

(1) results of all follow-up services for an infant who does not pass the screening described by Section 47.003(a) if the hospital provides the follow-up services; or

(2) the name of the provider or facility to which the hospital refers an infant who does not pass the screening described by Section 47.003(a) for follow-up services.

(h) Subject to Section 47.008, a qualified hearing screening provider, hospital, health care provider, physician, audiologist, or intervention specialist may obtain information from the department relating to:

(1) the results of each hearing screening performed under Section 47.003(a) or 47.0031(a);

(2) the results of each diagnostic audiological evaluation required under Section 47.0031(b)(2);

(3) infants who receive follow-up care;

(4) infants identified with hearing loss; and

(5) infants who are referred for intervention services.

SECTION _____. Chapter 47, Health and Safety Code, is amended by adding Sections 47.010 and 47.011 to read as follows:

Sec. 47.010. RULEMAKING. (a) The executive commissioner of the Health and Human Services Commission may adopt rules for the department to implement this chapter.

(b) If the executive commissioner adopts rules, the executive commissioner shall consider the most current guidelines established by the Joint Committee on Infant Hearing.

Sec. 47.011. DUTIES OF MIDWIFE. (a) In this section, "midwife" has the meaning assigned by Section 203.002, Occupations Code, and includes a nurse midwife described by Section 301.152, Occupations Code.

(b) A midwife who attends the birth of a newborn:

(1) is not required to offer the parents of the newborn a hearing screening for the newborn for the identification of hearing loss; and

(2) shall refer the parents of the newborn to a birthing facility or a provider that participates in the program and make a record of the referral.

SECTION _____. Section 47.002, Health and Safety Code, is repealed.

SECTION _____. (a) Not later than January 1, 2012, the executive commissioner of the Health and Human Services Commission shall prescribe a form to document a parent's decision to decline screening under Subdivision (1), Subsection (a), Section 47.003, Health and Safety Code, as added by this Act, in consultation with persons and organizations interested in newborn hearing screening.

(b) The Department of State Health Services may post the form prescribed under Subsection (a) of this section on the department's Internet website.

(c) A person or facility is not required to comply with the changes in law made by this Act to Chapter 47, Health and Safety Code, until January 1, 2012.

The amendment to **CSHB 411** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Ogden.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 411 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Zaffirini.

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 411 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 411** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Zaffirini.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 2169 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2169** at this time on its second reading:

HB 2169, Relating to the authority of the governing body of a taxing unit to rescind a discount for early payment of ad valorem taxes.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2169** (house committee printing) as follows:

(1) On page 1, line 10, strike "beginning in" and substitute "in the tax year following".

(2) On page 1, lines 10-12, strike ", except that the rescission takes effect beginning in the following year if the discount is rescinded after September 1".

The amendment to **HB 2169** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2169 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

HOUSE BILL 2169 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2169** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2608 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2608** at this time on its second reading:

CSHB 2608, Relating to the continuation and functions of the Texas Department of Housing and Community Affairs.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2608** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (a), Section 2306.542, Government Code, is amended by adding new subdivision (1) to read as follows:

(a) Using the natural disaster housing reconstruction plan developed under this subchapter, the director and advisory committee shall develop, for implementation under Subsections (b) and (c), housing reconstruction demonstration pilot programs for three areas, each of which was affected by one of the three most recent federally declared natural disasters. The pilot programs must provide for the replacement of at least 20 houses in each area to test the feasibility of implementing the plan in the large-scale production of replacement housing for victims of federally declared natural disasters.

(1) If local requirements, regulations or environmental factors of an area require elevation of houses, the department may deviate from the 20 house requirement under subsection (a) and determine the amount of houses needed to test the feasibility of implementing the plan.

The amendment to **CSHB 2608** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

Senator West offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2608** (senate committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 1 of the bill and renumbering the remaining SECTIONS of that ARTICLE accordingly:

SECTION 1. _____. Section 2306.072(c), Government Code, is amended to read as follows:

(c) The report must include:

(1) a complete operating and financial statement of the department;
(2) a comprehensive statement of the activities of the department during the preceding year to address the needs identified in the state low income housing plan prepared as required by Section 2306.0721, including:

(A) a statistical and narrative analysis of the department's performance in addressing the housing needs of individuals and families of low and very low income;

(B) the ethnic and racial composition of individuals and families applying for and receiving assistance from each housing-related program operated by the department; ~~and~~

(C) the department's progress in meeting the goals established in the previous housing plan, including efforts to address the populations described by Section 2306.0721(c)(1); and

(D) recommendations on how to improve the coordination of department services to the populations described by Section 2306.0721(c)(1);

(3) an explanation of the efforts made by the department to ensure the participation of individuals of low income and their community-based institutions in department programs that affect them;

(4) a statement of the evidence that the department has made an affirmative effort to ensure the involvement of individuals of low income and their community-based institutions in the allocation of funds and the planning process;

(5) a statistical analysis, delineated according to each ethnic and racial group served by the department, that indicates the progress made by the department in implementing the state low income housing plan in each of the uniform state service regions;

(6) an analysis, based on information provided by the fair housing sponsor reports required under Section 2306.0724 and other available data, of fair housing opportunities in each housing development that receives financial assistance from the department that includes the following information for each housing development that contains 20 or more living units:

(A) the street address and municipality or county in which the property is located;

(B) the telephone number of the property management or leasing agent;

(C) the total number of units, reported by bedroom size;

(D) the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually;

(E) the rent for each type of rental unit, reported by bedroom size;

(F) the race or ethnic makeup of each project;

(G) the number of units occupied by individuals receiving government-supported housing assistance and the type of assistance received;

(H) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income;

(I) a statement as to whether the department has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Commission on Human Rights, or the United States Department of Justice; and

(J) a statement as to whether the development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the normal monitoring activities and procedures that include meeting occupancy requirements or rent restrictions imposed by deed restriction or financing agreements;

(7) a report on the geographic distribution of low income housing tax credits, the amount of unused low income housing tax credits, and the amount of low income housing tax credits received from the federal pool of unused funds from other states; and

(8) a statistical analysis, based on information provided by the fair housing sponsor reports required by Section 2306.0724 and other available data, of average rents reported by county.

SECTION 1. _____. Section 2306.0721(c), Government Code, is amended to read as follows:

(c) The plan must include:

(1) an estimate and analysis of the size and the different housing needs of the following populations in each uniform state service region:

(A) individuals and families of moderate, low, very low, and extremely low income;

(B) individuals with special needs; ~~and~~

(C) homeless individuals;

(D) veterans;

(E) farmworkers; and

(F) youth who are aging out of foster care;

(2) a proposal to use all available housing resources to address the housing needs of the populations described by Subdivision (1) by establishing funding levels for all housing-related programs;

(3) an estimate of the number of federally assisted housing units available for individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(4) a description of state programs that govern the use of all available housing resources;

(5) a resource allocation plan that targets all available housing resources to individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(6) a description of the department's efforts to monitor and analyze the unused or underused federal resources of other state agencies for housing-related services and services for homeless individuals and the department's recommendations to ensure the full use by the state of all available federal resources for those services in each uniform state service region;

(7) strategies to provide housing for individuals and families with special needs in each uniform state service region;

(8) a description of the department's efforts to encourage in each uniform state service region the construction of housing units that incorporate energy efficient construction and appliances;

(9) an estimate and analysis of the housing supply in each uniform state service region;

(10) an inventory of all publicly and, where possible, privately funded housing resources, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies;

(11) strategies for meeting rural housing needs;

(12) a biennial action plan for colonias that:

(A) addresses current policy goals for colonia programs, strategies to meet the policy goals, and the projected outcomes with respect to the policy goals; and

(B) includes information on the demand for contract-for-deed conversions, services from self-help centers, consumer education, and other colonia resident services in counties some part of which is within 150 miles of the international border of this state;

(13) a summary of public comments received at a hearing under this chapter or from another source that concern the demand for colonia resident services described by Subdivision (12); and

(14) any other housing-related information that the state is required to include in the one-year action plan of the consolidated plan submitted annually to the United States Department of Housing and Urban Development.

The amendment to **CSHB 2608** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Ogden.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2608** (senate committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. REPEALER

SECTION ____.01. Section 2306.6710(f), Government Code, is repealed.

The amendment to **CSHB 2608** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Ogden.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2608 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2608 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2608** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1616 ON THIRD READING**

The Presiding Officer laid before the Senate **CSHB 1616** sponsored by Senator Estes on its third reading. The bill had been read second time, passed to third reading, and further consideration postponed.

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1616** be placed on its third reading and final passage:

CSHB 1616, Relating to the reporting of political contributions, political expenditures, and personal financial information, and to complaints filed with the Texas Ethics Commission.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

The bill was read third time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSHB 1616** (senate committee printing) on third reading as follows:

(1) In SECTION 6 of the bill, amending Section 571.123(b), Government Code (page 3, line 6), strike "and" and substitute "~~and~~".

(2) In SECTION 6 of the bill, amending Section 571.123(b), Government Code (page 3, line 8), between "Section 571.124(e)" and the period, insert the following:
; and

(4) if applicable, state that the respondent has 14 business days to correct the report that is the basis of the complaint, as provided by Section 254.0406, Election Code

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Subchapter B, Chapter 254, Election Code, is amended by adding Section 254.0406 to read as follows:

Sec. 254.0406. CORRECTION OF FILED REPORT. A person who files a report under this chapter may correct the report if:

(1) the correction is made not later than the 14th business day after the person receives written notice of a complaint filed with the commission with regard to the report; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION _____. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1223 to read as follows:

Sec. 571.1223. DISMISSAL OF COMPLAINT AFTER CORRECTION OF POLITICAL REPORT. If, not later than the 14th business day after a person receives written notice of a complaint alleging that the person failed to properly file a report required under Chapter 254, Election Code, the person corrects the report that is the basis of the complaint, the commission shall dismiss the complaint, provided that the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION _____. Section 571.124, Government Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Except as provided by Subsection (g), the [The] commission staff shall promptly conduct a preliminary review on receipt of a written complaint that is in compliance with the form requirements of Section 571.122.

(g) The commission may not conduct a preliminary review of a complaint alleging that a person failed to properly file a report required under Chapter 254, Election Code, until the period for correcting the report has expired as provided by Section 254.0406, Election Code.

(4) Renumber the subsequent SECTIONS of the bill accordingly.

The amendment to **CSHB 1616** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Present-not voting: Estes.

Absent-excused: Ogden.

On motion of Senator Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1616 as amended was finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Ogden.

HOUSE BILL 3404 ON SECOND READING

Senator Watson moved to suspend the regular order of business to take up for consideration **HB 3404** at this time on its second reading:

HB 3404, Relating to establishing a child care advisory committee to advise the Texas Facilities Commission.

The motion prevailed.

Senator Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Patrick.

Absent-excused: Ogden.

HOUSE BILL 3404 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3404** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 2592 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 2592** at this time on its second reading:

CSHB 2592, Relating to notice and disclosure requirements for certain credit services organizations regarding charges and consumer borrowing; providing an administrative penalty.

The motion prevailed.

Senator Birdwell asked to be recorded as voting "Nay" on suspension of the regular order of business.

Senator Davis asked to be recorded as "Present-not voting" on suspension of the regular order of business.

The bill was read second time.

(President in Chair)

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2592** (senate committee printing) in SECTION 1 of the bill, in added Section 393.221(2), Finance Code (page 1, lines 25 and 26), by striking "does not preclude repayment in more than one installment." and substituting "does not preclude repayment in more than one installment, provided that the combined fees charged by the credit access business and interest for the transaction do not exceed the finance charge allowable by law for installment loans subject to Subchapter E or F, Chapter 342.".

The amendment to **CSHB 2592** was read.

Senator Davis withdrew Floor Amendment No. 1.

CSHB 2592 was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell.

Present-not voting: Davis.

Absent-excused: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 2592 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2592** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

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

Nays: Birdwell.

Present-not voting: Davis.

Absent-excused: Ogden.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2, Present-not voting 1.

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

Nays: Birdwell, Lucio.

Present-not voting: Davis.

Absent-excused: Ogden.

HOUSE BILL 2594 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **HB 2594** at this time on its second reading:

HB 2594, Relating to the licensing and regulation of certain credit services organizations and the regulation of certain extensions of consumer credit obtained by those organizations or with regard to which the organizations provide assistance; providing an administrative penalty.

The motion prevailed.

Senators Birdwell and Rodriguez asked to be recorded as voting "Nay" on suspension of the regular order of business.

Senator Davis asked to be recorded as "Present-not voting" on suspension of the regular order of business.

The bill was read second time.

Senator Carona offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2594** (engrossed version) as follows:

(1) On page 13, line 24, strike "license holder" and substitute "credit access business or license holder".

The amendment to **HB 2594** was read.

Senator Carona offered the following amendment to Committee Amendment No. 1:

Floor Amendment No. 1

Amend Senate Committee Amendment No. 1 to **HB 2594** (senate committee printing, page 1, between lines 9 and 10) by adding the following item:

(2) In SECTION 2 of the bill, after added Section 393.628(a), Finance Code (page 6, between lines 27 and 28), insert the following subsection and reletter subsequent subsections of Section 393.628, Finance Code, appropriately:

(b) The commissioner shall remit to the comptroller amounts received under Subsection (a) for deposit in an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company. Money in the account may be spent by the finance commission only for the purposes provided by this section. Amounts in the account may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from those investments shall be deposited to the credit of the account.

The amendment to Committee Amendment No. 1 to **HB 2594** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Ogden.

Question recurring on the adoption of Committee Amendment No. 1 to **HB 2594**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 as amended except as follows:

Absent-excused: Ogden.

Senator Carona offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 2594** (engrossed version) as follows:

(1) On page 2, line 27, add after the underlined period "For purposes of this chapter, this definition does not preclude repayment in more than one installment."

The amendment to **HB 2594** was read.

Question — Shall Committee Amendment No. 2 to **HB 2594** be adopted?

SENATOR ANNOUNCED PRESENT

Senator Ogden, who had previously been recorded as "Absent-excused," was announced "Present."

Question — Shall Committee Amendment No. 2 to **HB 2594** be adopted?

Senator Davis offered the following amendment to Committee Amendment No. 2:

Floor Amendment No. 2

Amend Committee Amendment No. 2 to **HB 2594** (senate committee printing, page 1, line 14) by inserting between "installment" and the underlined period, "provided that the combined fees charged by the credit access business and interest for the transaction do not exceed the finance charge allowable by law for installment loans subject to Subchapter E or F, Chapter 342".

The amendment to Committee Amendment No. 2 to **HB 2594** was read.

Senator Davis withdrew Floor Amendment No. 2.

Question recurring on the adoption of Committee Amendment No. 2 to **HB 2594**, the amendment was adopted by the following vote: Yeas 24, Nays 6.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Williams, Zaffirini.

Nays: Davis, Ellis, Lucio, Rodriguez, Wentworth, West.

Absent: Whitmire.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 2594** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, strike added Section 393.602(b), Finance Code (page 2, lines 21-25), and substitute the following:

(b) A credit access business may assess fees for its services as agreed to between the parties. A credit access business fee may be calculated daily, biweekly, monthly, or on another periodic basis. A credit access business is permitted to charge amounts allowed by other laws, as applicable. A fee may not be charged unless it is disclosed.

(2) In SECTION 2 of the bill, strike added Section 393.622(c), Finance Code (page 5, lines 32-35), and substitute the following:

(c) Nothing in Section 393.201(c) or Sections 393.601-393.628 grants authority to the finance commission or the Office of Consumer Credit Commissioner to establish a limit on the fees charged by a credit access business.

The amendment to **HB 2594** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator West offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 2594** in SECTION 2 of the bill, in added Section 393.602(b), Finance Code (senate committee printing, page 2, lines 23-25), by striking "In connection with a determination of usury, the fees charged by a credit access business conducting business under this chapter do not constitute interest."

The amendment to **HB 2594** was read.

Senator West withdrew Floor Amendment No. 4.

Senator West offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 2594** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, strike added Section 393.622(c), Finance Code (page 5, lines 32-35).

(2) In SECTION 2 of the bill, following added Section 393.628, Finance Code (page 6, between lines 51 and 52), insert the following:

Sec. 393.629. DEFERRED PRESENTMENT TRANSACTIONS OBTAINED FOR CONSUMERS BY CREDIT ACCESS BUSINESS; RESTRICTIONS APPLICABLE. (a) The combined fees charged by a credit access business for obtaining for a consumer or assisting a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction may not exceed 15 percent of the amount advanced under the deferred presentment transaction.

(b) A credit access business on behalf of a lender or on its own behalf may not charge or receive in addition to the charges provided by this section any additional amount, whether in the form of broker fees, placement fees, or another fee or charge.

(c) A credit access business may not obtain for a consumer or assist a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction in which the amount of cash advanced exceeds 35 percent of the consumer's gross monthly income. For purposes of this subsection, a credit access business is not responsible for an individual consumer's failure to provide accurate information relating to the consumer's income.

(d) A credit access business may not for a fee obtain or assist a consumer in obtaining an extension of consumer credit in which a deferred presentment transaction will be renewed, rolled over, or otherwise consolidated by a lender for a fee. For purposes of this subsection, "rolled over" means refinancing or paying all or part of the finance charges and advance of a deferred presentment transaction with a new deferred presentment transaction.

(e) In this subsection, "consecutive loan" means a new extension of consumer credit in the form of a deferred presentment transaction that a credit access business obtains for a consumer or assists a consumer in obtaining on or before the seventh day after the date a previous deferred presentment transaction made by the same lender to the same consumer is paid in full. If a consumer enters into a third consecutive loan and the consumer is unable to pay in full on the due date the outstanding amount of the loan, the consecutive loan must be automatically converted at no additional cost into a written repayment plan under which the consumer must be allowed to repay the

debt in not less than four substantially equal installments, notwithstanding the period prescribed by Section 393.201(b)(2). A lender is not required to enter into a repayment plan with a consumer more frequently than once every 12 months. The consumer must agree not to enter into an additional deferred presentment transaction during the repayment plan term.

(f) A credit access business may not impose a charge in connection with a consumer's default on an extension of consumer credit in the form of a deferred presentment transaction that a credit access business obtains for the consumer or assists the consumer in obtaining.

Sec. 393.630. MOTOR VEHICLE TITLE LOANS OBTAINED FOR CONSUMERS BY CREDIT ACCESS BUSINESS; RESTRICTIONS APPLICABLE. (a) The combined fees charged by a credit access business for obtaining for a consumer or assisting a consumer in obtaining an extension of consumer credit in the form of a motor vehicle title loan may not exceed:

(1) 20 percent of the portion of the amount advanced that does not exceed \$700;

(2) 18 percent of the portion of the amount advanced that is greater than \$700 but does not exceed \$1,400; and

(3) 15 percent of the portion of the amount advanced that is greater than \$1,400.

(b) A credit access business on behalf of a lender or on its own behalf may not charge or receive in addition to the charges provided by this section any additional amount, whether in the form of broker fees, placement fees, or another fee or charge.

(c) If a consumer is unable to pay in full on the due date the outstanding amount of a motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining and that has been renewed or rolled over three times, or after a consumer enters into a third consecutive loan that a consumer is unable to pay in full when due, the debt must be automatically converted at no additional cost into a written repayment plan under which the consumer must be allowed to repay the debt in not less than four substantially equal installments, notwithstanding the period prescribed by Section 393.201(b)(2). A lender is not required to enter into a repayment plan with a consumer more frequently than once every 12 months. In this subsection:

(1) "Consecutive loan" means a new motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining on or before the seventh day after the date a previous motor vehicle title loan made by the same lender to the same consumer is paid in full.

(2) "Renewed" means a transaction in which a consumer refinances all or part of the finance charges and advance of a motor vehicle title loan with a new motor vehicle title loan.

(d) A credit access business may not impose a charge in connection with a consumer's default on a motor vehicle title loan obtained for the consumer by the credit access business or that the credit access business assisted the consumer in obtaining.

The amendment to **HB 2594** was read.

Senator West withdrew Floor Amendment No. 5.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 2594** (senate committee printing) in SECTION 2 of the bill, after added Section 393.626, Finance Code (page 5, between lines 58 and 59), by inserting the following:

Sec. 393.6265. ACCEPTANCE OF PARTIAL PAYMENT. (a) A credit access business may not obtain or assist in obtaining for a consumer an extension of consumer credit in the form of a deferred presentment transaction or motor vehicle title loan for which partial payment of the principal amount is not accepted.

(b) A lender must accept partial payment of the outstanding principal balance of an extension of consumer credit described by Section 393.602(a) at no penalty to the consumer at any time during the lender's regular business hours.

The amendment to **HB 2594** was read.

Senator Davis withdrew Floor Amendment No. 6.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 7

Amend **HB 2594** (senate committee printing) in SECTION 2 of the bill, in added Section 393.625, Finance Code (page 5, line 52), between "obtaining" and "must comply" by inserting "may not exceed a term of 90 days and".

The amendment to **HB 2594** was read.

Senator Davis withdrew Floor Amendment No. 7.

Senator West offered the following amendment to the bill:

Floor Amendment No. 8

Amend **HB 2594** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 393.607(a)(1)(B), Finance Code (page 3, line 34), after the underlined semicolon, strike "and".

(2) In SECTION 2 of the bill, in added Section ~~393.607~~(a)(2), Finance Code (page 3, line 37), between "393.611" and the underlined period, insert the following:
; and

(3) public convenience and necessity warrants the granting of the application, considering the location of other credit access businesses and the population density within the surrounding community

The amendment to **HB 2594** was read.

On motion of Senator Carona, Floor Amendment No. 8 was tabled by the following vote: Yeas 20, Nays 11.

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

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

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2594 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell, Rodriguez.

Present-not voting: Davis.

HOUSE BILL 2594 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2594** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2, Present-not voting 1.

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

Nays: Birdwell, Rodriguez.

Present-not voting: Davis.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2, Present-not voting 1. (Same as previous roll call)

BILLS AND RESOLUTION SIGNED

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

SB 31, SB 36, SB 41, SB 58, SB 74, SB 80, SB 122, SB 131, SB 155, SB 219, SB 246, SB 247, SB 256, SB 258, SB 264, SB 310, SB 311, SB 315, SB 387, SB 400, SB 402, SB 419, SB 431, SB 432, SB 436, SB 514, SB 520, SB 540, SB 545, SB 558, SB 601, SB 794, SB 795, SB 813, SB 822, HB 2809, HB 2825, HB 2937, HB 2978, HB 3146, HB 3174, HB 3307, HB 3465, HB 3470, HB 3506, HB 3573, HB 3818, HB 3857, HCR 151.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Monday, May 23, 2011 - 2

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 147** Button
Encouraging cities to promote long-term economic development and job growth by working together on the regional level to attract and retain business investment.
- HCR 152** Torres
Designating the first full week of May as Texas Teacher Appreciation Week for a 10-year period, 2012 to 2021.
- HCR 159** Hughes
Designating Marshall as the official Birthplace of Boogie Woogie.
- SB 29** Zaffirini Sponsor: Branch
Relating to the eligibility of certain postdoctoral fellows and graduate students to participate in health benefit programs at public institutions of higher education.
- SB 32** Zaffirini Sponsor: Branch
Relating to the consolidation of related higher education programs governing tuition, fee exemptions, and waivers respective to specific target populations.
- SB 43** Zaffirini Sponsor: Raymond
Relating to the civil liability of an employer or former employer of a mental health services provider who engages in sexual exploitation of a patient or former patient.
- SB 54** Zaffirini Sponsor: Eissler
Relating to certification to teach public school students who have visual impairments.
- SB 77** Nelson Sponsor: Raymond
Relating to certain requirements for certain sponsoring organizations and other institutions participating in the Child and Adult Care Food Program.
- SB 86** Nelson Sponsor: Miller, Sid
Relating to municipal contracts for enforcement of outstanding traffic violation arrest warrants.
- SB 149** West Sponsor: Castro
Relating to rules adopted and reporting required under the school district college credit program.
- SB 150** West Sponsor: Miller, Sid
Relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Department of Veterans Affairs and to updating certain references related to the grant of that authority to other federal law enforcement personnel.
- SB 162** Shapiro Sponsor: Branch
Relating to developing a developmental education plan for students entering public institutions of higher education.
- SB 187** Nelson Sponsor: Zerwas
Relating to human body and anatomical specimen donation.
- SB 189** Nelson Sponsor: Zerwas
Relating to the eligibility of certain aliens for a license to practice medicine in this state.

- SB 192** Nelson Sponsor: Howard, Donna
Relating to patient advocacy activities by nurses and certain other persons; providing an administrative penalty.
- SB 193** Nelson Sponsor: King, Susan
Relating to the regulation of the practice of nursing.
- SB 226** Nelson Sponsor: Smith, Todd
Relating to reporting individual student performance on a physical fitness assessment instrument to the Texas Education Agency.
- SB 266** Williams Sponsor: Harless
Relating to notice required in connection with possessory liens on motor vehicles.
- SB 267** Williams Sponsor: Elkins
Relating to a joint statement regarding the transfer of a motor vehicle as the result of a gift.
- SB 290** Watson Sponsor: Hernandez Luna
Relating to including a personal financial literacy component in public school mathematics instruction.
- SB 335** Fraser Sponsor: Eiland
Relating to an exemption from regulation as health spas for certain governmental hospitals and clinics.
- SB 350** Williams Sponsor: Truitt
Relating to the restructuring of fund obligations and accounts of the Texas Municipal Retirement System and related actuarial and accounting procedures.
- SB 367** Ogden Sponsor: Cook
Relating to the review by the attorney general of invoices related to legal services provided to state agencies by outside counsel.
- SB 422** Duncan Sponsor: Frullo
Relating to the authority of a municipality or county to contract with another entity to collect certain assessments levied by the municipality or county.
- SB 461** Williams Sponsor: Huberty
Relating to the design and issuance of license plates for United States paratroopers.
- SB 471** West Sponsor: Parker
Relating to public school, child-placing agency, and day-care center policies addressing sexual abuse and other maltreatment of children.
- SB 481** Harris Sponsor: Jackson, Jim
Relating to the removal of a guardian of an incapacitated person ordered by a court.
- SB 482** Harris Sponsor: Jackson, Jim
Relating to authorization agreements between parents and nonparent relatives of a child.
- SB 489** Fraser Sponsor: King, Susan
Relating to the Texas State Technical College System.
- SB 494** Fraser Sponsor: Craddick
Relating to the authority of certain local governmental entities to borrow money for a public hospital.

- SB 496** Fraser Sponsor: Hilderbran
Relating to the punishment for the offense of evading arrest or detention.
- SB 519** Hegar Sponsor: Hartnett
Relating to the period during which a motion for a new trial in a criminal proceeding in a justice or municipal court must be made.
- SB 530** Huffman Sponsor: Miller, Sid
Relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Social Security Administration and to updating certain references related to the grant of that authority to other federal law enforcement personnel.
- SB 578** Fraser Sponsor: Hartnett
Relating to the testimony of children in criminal cases.
- SB 609** Rodriguez Sponsor: Gonzalez, Naomi
Relating to the exemption of certain property from municipal drainage service charges and from related ordinances, resolutions, and rules.
- SB 626** Carona Sponsor: Thompson
Relating to lottery winnings, including assignment of winnings, periodic payments of winnings, and the deduction of child support delinquency amounts from winnings paid to a prize winner.
- SB 627** Davis Sponsor: Veasey
Relating to the participation by certain taxing units in tax increment financing and the payment of tax increments into the tax increment fund for a reinvestment zone.
- SB 682** Huffman Sponsor: Elkins
Relating to access to criminal history record information that relates to a person who is an applicant for appointment to an appraisal review board.
- SB 735** Carona Sponsor: Smithee
Relating to prohibition of certain extra hazardous coverages by title insurance companies.
- SB 743** Hegar Sponsor: Kleinschmidt
Relating to the designation of a segment of State Highway 71 as the 95th Division Memorial Highway.
- SB 791** Duncan Sponsor: Jackson, Jim
Relating to electronic notification of certain state officials and agencies of certain rules and rulemaking filings.
- SB 792** Duncan Sponsor: Branch
Relating to the duties of the secretary of state.
- SB 796** Nelson Sponsor: King, Susan
Relating to reporting on and assessing programs for the prevention and treatment of diabetes in the state.
- SB 799** Nelson Sponsor: Geren
Relating to the definition of "first sale" for purposes of the taxes imposed on certain liquor.

- SB 811** Zaffirini Sponsor: Hardcastle
Relating to the regulation of the practice of veterinary medicine.
- SB 851** Zaffirini Sponsor: Branch
Relating to a uniform deadline for student financial assistance for public institutions of higher education other than public junior colleges.
- SB 855** Duncan Sponsor: Hilderbran
Relating to assistance provided by the Office of Public Utility Counsel to interested parties on certain electricity matters involving certificates of convenience and necessity.
- SB 867** Deuell Sponsor: Jackson, Jim
Relating to testing accommodations for a person with dyslexia taking a licensing examination administered by a state agency.
- SB 886** Carona Sponsor: Darby
Relating to the execution docket and other records of certain court clerks.
- SB 889** Carona Sponsor: Davis, Sarah
Relating to assignment of rents to holders of certain security interests in real property.
- SB 899** Ogden Sponsor: Schwertner
Relating to the legislature's consent or approval of a settlement of a claim or action against this state.
- SB 957** Birdwell Sponsor: Anderson, Charles "Doc"
Relating to the clarification of terminology relating to the Waco Center for Youth.
- SB 959** Wentworth Sponsor: Pickett
Relating to toll collection and enforcement.
- SB 966** Uresti Sponsor: Pickett
Relating to high school diplomas for certain military veterans.
- SB 987** Hegar Sponsor: Kleinschmidt
Relating to the term of office and qualifications for a director of the Colorado County Groundwater Conservation District.
- SB 1002** Van de Putte Sponsor: Menendez
Relating to the designation of program costs for providing bill payment assistance to certain military veterans as a necessary operating expense that is a first lien against revenue of certain electric and gas utilities' revenue securing certain public securities or obligations.
- SB 1030** Carona Sponsor: Anchia
Relating to notice by sign requirement for sexually oriented businesses.
- SB 1043** Watson Sponsor: Martinez, "Mando"
Relating to the criminal penalty for the discarding of certain burning materials.
- SB 1044** Watson Sponsor: Ritter
Relating to authorizing counties to finance the acquisition of conservation easements.
- SB 1046** Duncan Sponsor: Pena
Relating to information regarding deceased registered voters.

- SB 1103** Carona Sponsor: Carter
Relating to the venue for prosecution of certain theft offenses.
- SB 1159** Wentworth Sponsor: Jackson, Jim
Relating to an exception to the residency requirements for filing a suit for dissolution of a marriage in this state for certain spouses of military personnel.
- SB 1167** Carona Sponsor: Hernandez Luna
Relating to cemeteries and perpetual care cemetery corporations; providing a penalty.
- SB 1176** Jackson Sponsor: Davis, John
Relating to the definition of a postsecondary program in regard to non-baccalaureate career schools and colleges.
- SB 1220** Hinojosa Sponsor: Gonzales, Veronica
Relating to the advisory committee on Medicaid and child health plan program rate and expenditure disparities between the Texas-Mexico border region and other areas of the state.
- SB 1228** Hegar Sponsor: Jackson, Jim
Relating to the duties of district clerks regarding certain electronic filing systems.
- SB 1231** Estes Sponsor: Laubenberg
Relating to the regulation of health spas by the secretary of state.
- SB 1273** Williams Sponsor: Hamilton
Relating to the lawful manufacture, distribution, and possession of and prescriptions for controlled substances under the Texas Controlled Substances Act.
- SB 1292** Hegar Sponsor: Fletcher
Relating to the issuance of a driver's license to a peace officer that includes an alternative to the officer's residence address.
- SB 1308** Seliger Sponsor: McClendon
Relating to the standards for attorneys representing indigent defendants in capital cases.
- SB 1322** Fraser Sponsor: Hilderbran
Relating to the operation of the Kimble County, McCulloch County, Mason County, and Menard County Juvenile Boards.
- SB 1330** Watson Sponsor: Naishtat
Relating to driving safety courses for individuals younger than 25 years of age receiving deferred disposition for certain traffic offenses.
- SB 1361** Estes Sponsor: Hardcastle
Relating to the audit report exemption for certain general and special law districts.
- SB 1404** Hinojosa Sponsor: Davis, Yvonne
Relating to the deadline for filing a suit to compel an appraisal review board to change an appraisal roll.
- SB 1421** Nelson Sponsor: Schwertner
Relating to the awarding of grants provided by the Cancer Prevention and Research Institute of Texas.

- SB 1438** Van de Putte Sponsor: Hopson
Relating to the program for impaired pharmacists and disciplinary proceedings conducted by the Texas State Board of Pharmacy.
- SB 1441** Ellis Sponsor: Davis, Yvonne
Relating to the correction of an ad valorem tax appraisal roll.
- SB 1480** Hegar Sponsor: Darby
Relating to the regulation of exotic aquatic species by the Parks and Wildlife Department; providing penalties.
- SB 1493** Uresti Sponsor: Farias
Relating to the directors of a defense base management authority and to a study on the effectiveness of the authority.
- SB 1521** Uresti Sponsor: Gallego
Relating to the distribution of money appropriated from a municipal court building security fund.
- SB 1522** Hinojosa Sponsor: Madden
Relating to the entering of a plea in a criminal case by a defendant confined in a penal institution.
- SB 1557** Carona Sponsor: Strama
Relating to the Texas High Performance Schools Consortium.
- SB 1610** Lucio Sponsor: Hamilton
Relating to seat belt requirements for certain vehicles.
- SB 1613** Ogden Sponsor: Brown
Relating to the application of the public meetings and public information laws to public power utilities.
- SB 1638** Davis Sponsor: Geren
Relating to the exception of certain personal information from required disclosure under the public information law.
- SB 1698** Williams Sponsor: Callegari
Relating to reporting concerning inmates who are confined in county jails and subject to federal immigration detainees.
- SB 1737** Van de Putte Sponsor: Flynn
Relating to accrual and use of leave of absence for certain training or duty, including military training or duty, by public employees and officers.
- SB 1751** Uresti Sponsor: Thompson
Relating to calculation of the net resources of a person ordered to pay child support.
- SB 1787** Patrick Sponsor: Martinez Fischer
Relating to the information provided by a peace officer before requesting a specimen to determine intoxication.
- SB 1789** Patrick Sponsor: Bohac
Relating to platting requirements affecting subdivision golf courses in certain counties.

- SB 1807** Lucio Sponsor: Lozano
Relating to the composition of the 444th Judicial District.
- SB 1812** Nichols Sponsor: Hamilton
Relating to criminal history record information of certain applicants for a certificate of registration issued by the Texas Real Estate Commission.
- SB 1857** Zaffirini Sponsor: Truitt
Relating to the administration of medication for persons with intellectual and developmental disabilities.
- SB 1875** Hinojosa Sponsor: Munoz, Jr.
Relating to the governing body and the powers of the Agua Special Utility District.
- SB 1880** Huffman Sponsor: Howard, Charlie
Relating to the powers and duties of the Imperial Redevelopment District; providing authority to impose a tax and issue bonds.
- SB 1887** Harris Sponsor: Smith, Todd
Relating to the appointment of bailiffs in certain county criminal courts of Tarrant County.
- SB 1907** Wentworth Sponsor: Geren
Relating to access to certain archaic information.
- SB 1914** Watson Sponsor: Rodriguez, Eddie
Relating to the creation of the Southeast Travis County Municipal Utility District No. 2; providing authority to impose a tax and issue bonds.
- SB 1915** Watson Sponsor: Rodriguez, Eddie
Relating to the creation of the Southeast Travis County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds.
- SB 1927** Zaffirini Sponsor: Garza
Relating to the authority of certain volunteer firefighter and emergency services organizations to hold tax-free sales or auctions.
- SB 1928** Ellis Sponsor: Allen
Relating to an African American Texans memorial monument on the Capitol grounds.
- SCR 35** Wentworth Sponsor: Miller, Doug
Designating western swing as the official State Music of Texas.
- SCR 51** Ellis Sponsor: Allen
Expressing the legislature's support for the construction of a monument to African American Texans on the grounds of the State Capitol at the location approved by the State Preservation Board for a Juneteenth monument.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE JOINT RESOLUTION 63 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **HJR 63** at this time on its second reading:

HJR 63, Proposing a constitutional amendment authorizing the legislature to permit a county to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area and to pledge for repayment of the bonds or notes increases in ad valorem taxes imposed by the county on property in the area.

The motion prevailed.

Senators Birdwell, Nelson, and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The resolution was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell, Nelson, Patrick.

HOUSE JOINT RESOLUTION 63 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 63** be placed on its third reading and final passage.

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

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

Nays: Birdwell, Nelson, Patrick.

The resolution was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

HOUSE BILL 1173 ON SECOND READING

Senator Huffman moved to suspend the regular order of business to take up for consideration **HB 1173** at this time on its second reading:

HB 1173, Relating to the release on bond of certain persons arrested for a misdemeanor without a warrant in certain counties.

The motion prevailed.

Senators Davis, Ellis, Gallegos, Hinojosa, Lucio, Seliger, Uresti, Watson, and West asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1173** (senate committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 11-22) and substitute the following:

SECTION 1. Article 17.033, Code of Criminal Procedure, is amended by adding Subsections (a-1) and (e) and amending Subsections (c) and (d) to read as follows:

(a-1) Notwithstanding Subsection (a) and except as provided by Subsection (c), a person who, in a county with a population of three million or more, is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed \$5,000, not later than the 36th hour after the person's arrest if the person was arrested for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense.

(c) On the filing of an application by the attorney representing the state, a magistrate may postpone the release of a person under Subsection (a), (a-1), or (b) for not more than 72 hours after the person's arrest. An application filed under this subsection must state the reason a magistrate has not determined whether probable cause exists to believe that the person committed the offense for which the person was arrested.

(d) The time limits imposed by Subsections (a), (a-1), and (b) do not apply to a person arrested without a warrant who is taken to a hospital, clinic, or other medical facility before being taken before a magistrate under Article 15.17. For a person described by this subsection, the time limits imposed by Subsections (a), (a-1), and (b) begin to run at the time, as documented in the records of the hospital, clinic, or other medical facility, that a physician or other medical professional releases the person from the hospital, clinic, or other medical facility.

(e) Subsection (a-1) and this subsection expire on September 1, 2013.

(2) In SECTION 2 of the bill (page 1, line 23), between "by this Act" and "applies", insert "in amending Article 17.033, Code of Criminal Procedure,".

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

SECTION ____ Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.0331 to read as follows:

Art. 17.0331. IMPACT STUDY. (a) This article applies only to a county with a population of three million or more.

(b) Each county to which this article applies shall conduct an impact study to determine the effect of Article 17.033(a-1) on the county's ability to control and process the county's misdemeanor caseload, including a specific assessment of the effect of that subsection on:

(1) the average number of hours a person who is arrested for a misdemeanor is detained in jail before being released on bond;

(2) bonding practices, including the number of persons released on personal bond;

(3) the inmate population in a county jail and in a each municipal jail located in the county;

(4) the number of arrests for misdemeanor offenses;

(5) public safety;

(6) costs to the criminal justice system; and

(7) the number of applications filed by the attorney representing the state under Article 17.033(c).

(c) The county shall also determine whether a more cost-effective method of controlling and processing misdemeanor caseloads exists than an extension of the period for which a person may be detained after a misdemeanor arrest.

(d) Not later than October 15, 2012, the county must file the impact study with:

- (1) the commissioners court of the county;
- (2) the Senate Committee on Criminal Justice;
- (3) the Senate Committee on Jurisprudence; and
- (4) the House Criminal Jurisprudence Committee.

(e) The county shall make the results of the impact study available to the public.

(f) This article expires on September 1, 2013.

The amendment to **HB 1173** was read and was adopted by the following vote: Yeas 31, Nays 0.

On motion of Senator Huffman and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1173 as amended was passed to third reading by the following vote: Yeas 22, Nays 9.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Rodriguez, Shapiro, Van de Putte, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Seliger, Uresti, Watson, West.

BILLS SIGNED

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

HB 150, HB 265, HB 361, HB 596, HB 707, HB 960, HB 969, HB 976, HB 1110, HB 1120, HB 1215, HB 1379, HB 1383, HB 1395, HB 1426, HB 1481, HB 1514, HB 1525, HB 1614, HB 1666, HB 1678, HB 1682, HB 1771, HB 1830, HB 1866, HB 1906, HB 2286, HB 2289, HB 2295, HB 2366, HB 2370, HB 2385, HB 2418, HB 2482, HB 2519, HB 2538, HB 2582, HB 2624, HB 2633, HB 2690, HB 2742.

HOUSE BILL 1173 ON THIRD READING

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1173** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Shapiro, Van de Putte, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Davis, Ellis, Seliger, Uresti, Watson, West.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 9.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Rodriguez, Shapiro, Van de Putte, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Seliger, Uresti, Watson, West.

HOUSE CONCURRENT RESOLUTION 42 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HCR 42** at this time on its second reading:

HCR 42, Expressing support for the current FBI effort to reevaluate existing policies, standards, and protocols for forensic DNA testing laboratories and expressing support for any new policies, standards, and protocols that would hold public and private labs to the same standards, audits, and review process, urging Congress to pass any necessary federal legislation that ensures continued quality in forensic science while holding public and private lab DNA analysis to the same standards, and encouraging Texas law enforcement agencies to use forensic science review methods that will eliminate DNA testing backlogs.

The resolution was read second time and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2735 ON SECOND READING

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **HB 2735** at this time on its second reading:

HB 2735, Relating to procedures for certain persons charged with an administrative violation of a condition of release from the Texas Department of Criminal Justice on parole or to mandatory supervision.

The motion prevailed.

Senators Huffman, Nelson, Nichols, Ogden, Patrick, and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Huffman, Nelson, Nichols, Ogden, Patrick, Shapiro.

HOUSE BILL 2735 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2735** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

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

Nays: Huffman, Nelson, Nichols, Ogden, Patrick, Shapiro.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

(Senator Eltife in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1386 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSHB 1386** at this time on its second reading:

CSHB 1386, Relating to the public health threat presented by youth suicide.

The motion prevailed.

Senators Birdwell and Nichols asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1386** by adding to the bill the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (b), Section 21.003, Education Code, is amended to read as follows:

(b) Except as otherwise provided by this subsection, a [A] person may not be employed by a school district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, marriage and family therapist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession and [A person] may perform specific services within those professions for a school district only if the person holds the appropriate credential from the appropriate state agency. As long as a person employed by a district before September 1, 2011, to perform marriage and family therapy, as defined by Section 502.002, Occupations Code, is employed by the same district, the person is not required to hold a license as a marriage and family therapist to perform marriage and family therapy with that district.

SECTION _____. Section 502.004, Occupations Code, is amended to read as follows:

Sec. 502.004. APPLICATION OF CHAPTER. This chapter does not apply to:

(1) the activities, within the scope of a person's employment, of a person employed to perform marriage and family therapy by a federal, state, county, or municipal agency or, except as provided by Section 21.003(b), Education Code, by a public or private educational institution[- if the activities are within the scope of the person's employment];

(2) the activities of a student, intern, or trainee in marriage and family therapy in a recognized course of study in marriage and family therapy at an accredited institution of higher education or other training institution, if:

(A) the activities constitute a part of the course of study; and
(B) the person is called a "marriage and family therapist intern" or similar title;

(3) the activities and services of a person licensed to practice another profession, including a physician, attorney, registered nurse, occupational therapist, psychologist, social worker, or licensed professional counselor; or

(4) the activities and services of a recognized religious practitioner, including a pastoral counselor or Christian Science practitioner recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, if the practitioner practices marriage and family therapy in a manner consistent with the laws of this state.

SECTION _____. As soon as practicable after the effective date of this Act, the State Board for Educator Certification shall propose rules for the administration of Subsection (b), Section 21.003, Education Code, as amended by this Act.

The amendment to **CSHB 1386** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1386 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell, Hegar, Nichols.

COMMITTEE SUBSTITUTE HOUSE BILL 1386 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1386** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

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

Nays: Birdwell, Nichols.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3.

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

Nays: Birdwell, Hegar, Nichols.

HOUSE BILL 3199 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3199** at this time on its second reading:

HB 3199, Relating to the repeal of requirements and penalties related to the grading of roses.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3199 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3199** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1334 ON SECOND READING**

Senator Davis moved to suspend the regular order of business to take up for consideration **CSHB 1334** at this time on its second reading:

CSHB 1334, Relating to the effect of a delay by the State Board for Educator Certification in renewing an educator's certification.

The motion prevailed.

Senators Birdwell and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell, Patrick.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1334 ON THIRD READING**

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1334** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

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

Nays: Birdwell, Patrick.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

HOUSE BILL 359 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **HB 359** at this time on its second reading:

HB 359, Relating to discipline in public schools, including the use of corporal punishment and the prosecution of certain children for school-related offenses.

The motion prevailed.

Senators Birdwell and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Lucio offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 359** by striking Section 1, subsection (e), lines 13 and 14 of page 2.

The amendment to **HB 359** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 359** (Senate Committee Report), in SECTION 4 of the bill, by striking Section 42.01(f), Penal Code (page 2, lines 9 through 14), and substitute the following:

(f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student in the sixth grade or a lower grade level, and the prohibited conduct occurred at a public school campus during regular school hours.

The amendment to **HB 359** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 359** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (b), Section 37.0021, Education Code, is amended by adding Subdivision (4) to read as follows:

(4) "Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

SECTION _____. Section 37.0021, Education Code, is amended by amending Subsection (g) and adding Subsections (h) and (i) to read as follows:

(g) This section and any rules or procedures adopted under this section do not apply to:

(1) a peace officer [~~while~~] performing law enforcement duties, except as provided by Subsection (i);

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

(h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

(1) is employed or commissioned by a school district; or

(2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

(i) A school district shall report electronically to the agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. A report submitted under this subsection must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

SECTION _____. The commissioner of education shall adopt rules as provided by Subsection (i), Section 37.0021, Education Code, as added by this Act, as soon as practicable after the effective date of this Act.

The amendment to **HB 359** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Jackson, Ogden.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 359 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Birdwell, Patrick.

HOUSE BILL 359 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 359** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

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

Nays: Birdwell, Patrick.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

HOUSE BILL 2734 ON SECOND READING

Senator Williams moved to suspend the regular order of business to take up for consideration **HB 2734** at this time on its second reading:

HB 2734, Relating to certain mandatory conditions of parole or mandatory supervision for illegal criminal aliens and the revocation of parole or mandatory supervision as a result of violating those conditions.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Rodriguez.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2734** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.252 to read as follows:

Art. 2.252. VERIFICATION OF IMMIGRATION STATUS OF PERSON CHARGED WITH COMMITTING OFFENSE. (a) A local law enforcement agency that has custody of a person who has been arrested and transported to a place of detention shall verify the immigration status of the person by use of the federal Secure Communities program operated by United States Immigration and Customs Enforcement or a successor program.

(b) A local law enforcement agency is not required to conduct an immigration status verification under Subsection (a) of a person who is transferred to the custody of the agency by another law enforcement agency if the transferring agency, before transferring custody of the person, conducted an immigration status verification under Subsection (a).

The amendment to **HB 2734** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Williams and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2734 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Rodriguez.

HOUSE BILL 2734 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2734** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Rodriguez.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 1797 ON SECOND READING

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1797** at this time on its second reading:

HB 1797, Relating to a person's eligibility to obtain a license in social work.

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1797** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 505.003, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) A person who teaches social work at an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, is not required to hold a license under this chapter to the extent the person confines the person's activities to teaching and does not otherwise engage in the practice of social work.

The amendment to **HB 1797** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Rodriguez and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1797 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1797 ON THIRD READING

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1797** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas

Monday, May 23, 2011 - 3

(Revised Message)

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:

- SB 20** Williams Sponsor: Strama
Relating to a grant program for certain natural gas motor vehicles.
(Amended)
- SB 181** Shapiro Sponsor: Laubenberg
Relating to the calculation and reporting of water usage by municipalities and water utilities for state water planning and other purposes.
(Amended)
- SB 304** Nichols Sponsor: Creighton
Relating to employment services programs for certain residents receiving services from public hospitals or hospital districts.
- SB 385** Williams Sponsor: Otto
Relating to the creation of an alternative fuel program to be funded by the Texas emissions reduction plan fund.
(Amended)
- SB 438** Nelson Sponsor: Geren
Relating to the number of days a winery may sell wine under a winery festival permit.
(Committee Substitute)
- SB 1000** Eltife Sponsor: Geren
Relating to self-directed and semi-independent status of the Texas Real Estate Commission; making an appropriation.
(Committee Substitute)
- SB 1035** Williams Sponsor: Harless
Relating to motor vehicle title services; providing penalties.
(Committee Substitute/Amended)
- SB 1124** Carona Sponsor: Truitt
Relating to licensing and regulation of certain persons involved in residential mortgage lending pursuant to the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009; providing penalties.
(Amended)
- SB 1534** Shapiro Sponsor: Davis, John
Relating to the operation and certification of career schools or colleges.
(Committee Substitute/Amended)
- SB 1732** Van de Putte Sponsor: Guillen
Relating to authorizing the adjutant general to operate post exchanges on state military property.
(Committee Substitute)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
HOUSE BILL 1451 ON SECOND READING**

Senator Whitmire moved to suspend the regular order of business to take up for consideration **CSHB 1451** at this time on its second reading:

CSHB 1451, Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.

The motion prevailed by the following vote: Yeas 22, Nays 9.

Yeas: Davis, Duncan, Ellis, Estes, Gallegos, Harris, Hegar, Hinojosa, Jackson, Lucio, Nelson, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Birdwell, Carona, Deuell, Eltife, Fraser, Huffman, Nichols, Patrick, Williams.

The bill was read second time.

(President Pro Tempore Ogden in Chair)

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1451** (senate committee report) as follows:

(1) In SECTION 2 of the bill, in proposed Section 802.002(8), Occupations Code (page 1, line 44), between "consideration" and the period, insert "and who sells or exchanges, or offers to sell or exchange, not fewer than 20 animals in a calendar year"

(2) In SECTION 2 of the bill, strike proposed Section 802.005, Occupations Code (page 2, lines 26 through 42), and substitute the following:

Sec. 802.005. EXEMPTION FOR CERTAIN PERSONS WHO BREED SPECIAL PURPOSE DOGS. (a) This section applies only to a dog bred with the intent that it be used primarily for:

(1) herding livestock, as defined by Section 1.003, Agriculture Code, or other agricultural uses;

(2) hunting, including tracking, chasing, pointing, flushing, or retrieving game; or

(3) competing in field trials, hunting tests, or similar organized performance events.

(b) This chapter does not apply to a person to the extent the person breeds dogs described by Subsection (a) for personal use. A person described by this subsection may conduct direct or indirect sales or exchanges in return for consideration of dogs described by Subsection (a).

(c) Notwithstanding Subsection (b), a person described by Subsection (b) may be subject to the requirements of this chapter based on the person's activities with respect to animals other than dogs that are bred and used as described by this section.

(d) Dogs described by Subsection (a) may not be counted for purposes of determining the number of adult intact female animals possessed by a person as described by Section 802.002(8).

(3) In SECTION 2 of the bill, in proposed Section 802.059(b)(2), Occupations Code (page 3, line 32), strike "projects" and substitute "actions".

(4) In SECTION 2 of the bill, in proposed Section 802.059(b)(2), Occupations Code (page 3, line 33), strike "this chapter;" and substitute "and enforce this chapter; and".

(5) In SECTION 2 of the bill, in proposed Section 802.059(b)(3), Occupations Code (page 3, lines 36 and 37), strike "; and" and substitute an underlined period.

(6) In SECTION 2 of the bill, strike proposed Section 802.059(b)(4), Occupations Code (page 3, lines 38 through 40).

(7) In SECTION 2 of the bill, following proposed Section 802.059(e), Occupations Code (page 3, between lines 48 and 49), insert the following:

(f) The executive director of the department must approve any expenditure from the account.

(g) The department shall report its use of the account in its quarterly financial report to the commission.

(8) In SECTION 2 of the bill, strike proposed Section 802.061, Occupations Code (page 3, lines 57 through 61), and renumber subsequent proposed sections of Subchapter B, Chapter 802, Occupations Code, accordingly.

(9) In SECTION 2 of the bill, in proposed Section 802.063(b), Occupations Code (page 4, line 4), strike "may" and substitute "must be given a reasonable opportunity to".

(10) In SECTION 2 of the bill, in proposed Section 802.063(c), Occupations Code (page 4, line 5), strike "The department or third-party inspector may not" and substitute "If necessary to adequately perform the inspection, the department or third-party inspector may determine it is appropriate to not".

(11) In SECTION 2 of the bill, strike proposed Section 802.063(d), Occupations Code (page 4, lines 10 through 13), and substitute the following:

(d) In conducting an inspection under this section, an inspector may not enter or access any portion of a private residence of a licensed breeder except as necessary to access animals or other property relevant to the care of the animals. The inspector may request that relevant documents or records be provided for inspection.

(12) In SECTION 2 of the bill, in proposed Section 802.066(b)(3), Occupations Code (page 4, line 39), between "organizations" and the underlined semicolon, insert "each of which has an office based in this state".

(13) In SECTION 2 of the bill, in proposed Section 802.154(a), Occupations Code (page 7, line 16), between "(a)" and "A", insert "The commission shall adopt rules establishing the minimum information that a licensed breeder must maintain for each animal in the breeder's facility.".

(14) In SECTION 2 of the bill, strike proposed Section 802.154(b), Occupations Code (page 7, lines 19 through 47), and renumber subsequent proposed subsections of Section 802.154, Occupations Code, accordingly.

(15) In SECTION 2 of the bill, in proposed Section 802.201(b)(4), Occupations Code (page 8, lines 8 through 10), strike "as needed to prevent any condition that adversely affects the animal's health and cleanliness" and substitute "to the extent required to maintain the animal in a state of good health".

(16) In SECTION 2 of the bill, in proposed Section 802.201(b)(10), Occupations Code (page 8, lines 36 through 37), strike "that affects the animal's health or well-being" and substitute ", to the extent required to maintain the animal in a state of good health".

The amendment to **CSHB 1451** was read.

Senator Fraser offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 by Whitmire to **CSHB 1451** (senate committee report), in item (1) of the amendment (page 1, line 6), by striking "20" and substituting "60".

The amendment to Floor Amendment No. 1 to **CSHB 1451** was read.

On motion of Senator Whitmire, Floor Amendment No. 2 was tabled by the following vote: Yeas 25, Nays 6.

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

Nays: Birdwell, Carona, Fraser, Nichols, Patrick, Williams.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 1451**, the amendment was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1451** (Senate committee printing) in SECTION 2 of the bill, in Section 802.021(b)(8), Occupations Code (page 8, lines 29-30), strike "at least one regular veterinary examination a year for a breeding animal;" and substitute "veterinary care as necessary to maintain each breeding animal in a state of good health;".

The amendment to **CSHB 1451** was read.

On motion of Senator Whitmire, Floor Amendment No. 3 was tabled by the following vote: Yeas 17, Nays 14.

Yeas: Davis, Duncan, Ellis, Estes, Gallegos, Hinojosa, Lucio, Ogden, Rodriguez, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Carona, Deuell, Eltife, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Seliger, Wentworth.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 1451** (Senate committee printing) in SECTION 2 of the bill, in Section 802.021(b)(11), Occupations Code (page 8, line 38), between "an" and "animal", insert "adult".

The amendment to **CSHB 1451** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1451 as amended was passed to third reading by the following vote: Yeas 22, Nays 9.

Yeas: Davis, Duncan, Ellis, Estes, Gallegos, Harris, Hegar, Hinojosa, Jackson, Lucio, Nelson, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Birdwell, Carona, Deuell, Eltife, Fraser, Huffman, Nichols, Patrick, Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1451 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1451** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

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

Nays: Birdwell, Carona, Deuell, Nichols, Patrick, Williams.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 9.

Yeas: Davis, Duncan, Ellis, Estes, Gallegos, Harris, Hegar, Hinojosa, Jackson, Lucio, Nelson, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Birdwell, Carona, Deuell, Eltife, Fraser, Huffman, Nichols, Patrick, Williams.

HOUSE BILL 1090 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1090** at this time on its second reading:

HB 1090, Relating to the calculation of interest on certain ad valorem tax refunds.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1090** (senate committee printing) by striking SECTION 2 of the bill and substituting the following:

SECTION 2. The change in law made by this Act applies only to the rate of interest on a tax refund that is made following an appeal that is filed on or after the effective date of this Act. The rate of interest on a tax refund that is made following an appeal that is filed before the effective date of this Act is determined by the law in effect when the appeal is filed, and that law is continued in effect for that purpose.

The amendment to **HB 1090** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1090 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1090 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1090** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

RECESS

On motion of Senator Whitmire, the Senate at 8:44 p.m. recessed until 9:00 p.m. today.

AFTER RECESS

The Senate met at 9:17 p.m. and was called to order by President Pro Tempore Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 272 ON SECOND READING**

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 272** at this time on its second reading:

CSHB 272, Relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.

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

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 272** (senate committee printing) as follows:

(1) In SECTION 8 of the bill, in added Section 2210.071(c), Insurance Code (page 3, line 47), between "Subchapter M" and the underlined period, insert "and, notwithstanding Subsection (a), may be paid from the proceeds of public securities issued under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses".

(2) In SECTION 50 of the bill, in added Section 2210.6136(b), Insurance Code (page 19, line 16), between "period from" and "the date", insert: "the earlier of, as applicable:

(1) the date on which public securities are issued under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses; or

(2)".

The amendment to **CSHB 272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 272** (senate committee printing) as follows:

(1) In SECTION 7 of the bill, in added Section 2210.059(a), Insurance Code (page 3, line 11), strike "100" and substitute "1,000".

(2) In SECTION 7 of the bill, in added Section 2210.059(b), Insurance Code (page 3, line 21), strike "100th" and substitute "1,000th".

(3) In SECTION 9 of the bill, in amended Section 2210.072(a), Insurance Code (page 3, line 54), strike "Class 1" and substitute "On request of the association and approval by the commissioner, and subject to Subsection (a-2), Class 1".

(4) In SECTION 9 of the bill, in amended Section 2210.072(a), Insurance Code (page 3, lines 55-56), strike "on request of the association and approval by the commissioner" and substitute "including before, on, or after an occurrence or series of occurrences that results in insured losses".

(5) In SECTION 9 of the bill, in added Section 2210.072(a-1), Insurance Code (page 3, line 60), between "shall" and "establish", insert ", subject to Subsection (a-2),".

(6) In SECTION 9 of the bill, in added Section 2210.072(a-2), Insurance Code (page 4, line 1), at the end of the subsection, insert "The amount of outstanding public securities issued under this section before an occurrence or series of occurrences that results in insured losses may not, in the aggregate, exceed \$1 billion at any one time, regardless of the calendar year or years in which the outstanding public securities were issued."

(7) In SECTION 9 of the bill, in amended Section 2210.072(b)(2), Insurance Code (page 4, line 11), strike "a subsequent" and substitute "the following".

(8) In SECTION 10 of the bill, in amended Section 2210.073(b)(2), Insurance Code (page 4, line 25), strike "a subsequent" and substitute "the following".

(9) In SECTION 11 of the bill, in amended Section 2210.074(b)(2), Insurance Code (page 4, line 42), strike "a subsequent" and substitute "the following".

(10) In SECTION 56 of the bill (page 21, between lines 6 and 7), insert:

(h) This section expires June 1, 2013.

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

SECTION _____. Section 2210.259, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The commissioner by rule may provide for a discount of, or a credit against, a surcharge assessed under Subsection (a) in instances in which a policyholder demonstrates that the noncompliant structure was constructed with at least one structural building component that complies with the building code standards set forth in the plan of operation.

The amendment to **CSHB 272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 272** (Senate Committee Report) in SECTION 2 of the bill, amending Section 541.152(b) and (c), Insurance Code by striking the subsection (c) on page 1, lines 29-31.

And amend C.S.H.B. 272 (senate committee report) in SECTION 37 of the bill, amending Section 2210.552(f), page 12, lines 42-44, by substituting the following:

"(2) may recover damages under Section 541.152(b) or under Section 17.50, Business & Commerce Code, not to exceed two times the amount of actual damages, only if the claimant proves by clear and convincing evidence that the association knowingly or intentionally committed an act prohibited by Chapter 541 as an unfair method of competition or an unfair or deceptive act or practice in the business of insurance."

The amendment to **CSHB 272** was read.

Senator Watson offered the following amendment to Floor Amendment No. 3:

Floor Amendment No. 4

Amend Floor Amendment No. 3 to **CSHB 272** by striking the first paragraph and inserting the following:

Amend C.S.H.B. 272 (senate committee report) in SECTION 2 of the bill, amending Section 541.152(b) and (c), Insurance Code as follows:

(1) In Subsection (b), on page 1, line 25, strike "Except as provided by Subsection (c), on [On]" and insert "On"; and

(2) Strike Subsection (c), on page 1, lines 29-31.

The amendment to Floor Amendment No. 3 to **CSHB 272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Question recurring on the adoption of Floor Amendment No. 3 to **CSHB 272**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 as amended.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 272** (Senate Committee Report) in SECTION 39 of the bill, adding Section 2210.578, Insurance Code, by striking subsection (b) on page 15, lines 12-17, and substituting the following:

"(b) If six or more claimants file civil actions against the association as a result of a weather-related event, an action brought against the association under this section must be presided over by a judge appointed by the judicial panel on multidistrict litigation designated under Section 74.161, Government Code. A judge appointed under this section must be an active judge in Travis County, for suits filed in Travis County, or an active judge in the county in which suit is filed, for a suit filed in a county other than Travis County. 'Active judge' shall be defined as in Section 74.041, Government Code."

The amendment to **CSHB 272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 272** (senate committee printing), in SECTION 50 of the bill, in added Section 2210.6136, Insurance Code (page 19, lines 4-13), as follows:

(1) Strike added Subsection (a) and substitute:

(a) In lieu of issuing distinct Class 1, Class 2, or Class 3 public securities, on request of the association and approval by the commissioner, the board may issue public securities payable from all of the sources described in Sections 2210.612, 2210.613, and 2210.6135 with:

(1) the first source of payment being as described in Section 2210.612, to the extent public securities described by that section are marketable;

(2) the second source of payment being as described in Section 2210.613, in an amount not to exceed the amount of Class 2 public securities that could be issued under Section 2210.073 in the calendar year in which securities are issued under this section;

(3) the third source of payment being as described in Section 2210.6135, in an amount not to exceed the amount of Class 3 public securities that could be issued under Section 2210.074 in the calendar year in which securities are issued under this section; and

(4) the fourth source of payment, if necessary, being a distribution among member assessment and premium surcharges described in Sections 2210.613 and 2210.6135 that complies with the commissioner's order issued under Subsection (b).

(b) The commissioner by order shall specify the distribution of the fourth source of payment under Subsection (a)(4) based on the amount of public securities issued under this section, the total amount of outstanding public securities issued under this chapter, the sources of payment for the outstanding public securities, and any other factors the commissioner determines to be relevant.

(2) Reletter subsections of the section accordingly.

The amendment to **CSHB 272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 272** (senate committee printing), in SECTION 56 of the bill, by striking Subsections (b) and (c) of that SECTION (page 20, lines 27-42), and substituting the following:

(b) The committee is composed of 12 members appointed as follows:

(1) four members of the senate appointed by the lieutenant governor, two of whom represent one or more first tier coastal counties and two of whom do not represent a first tier coastal county;

(2) four members of the house of representatives appointed by the speaker of the house of representatives, two of whom represent one or more first tier coastal counties and two of whom do not represent a first tier coastal county; and

(3) four public members with a background in actuarial science, law, business, or insurance, as follows:

(A) two members who do not reside in a first tier coastal county, appointed by the governor;

(B) one member who resides in a first tier coastal county, appointed by the lieutenant governor; and

(C) one member who resides in a first tier coastal county, appointed by the speaker of the house of representatives.

(c) The speaker of the house of representatives and the lieutenant governor shall jointly designate a chair or, alternatively, designate two co-chairs, from among the committee membership, one of whom represents or resides in a first tier coastal county.

The amendment to **CSHB 272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

Senator Birdwell offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 272** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . ADJUSTER ADVISORY BOARD

SECTION __.001. (a) The adjuster advisory board established under this section is composed of the following nine members appointed by the commissioner:

- (1) two public insurance adjusters;
- (2) two members who represent the general public;
- (3) two independent adjusters;
- (4) one adjuster who represents a domestic insurer authorized to engage in business in this state;
- (5) one adjuster who represents a foreign insurer authorized to engage in business in this state; and
- (6) one representative of the Independent Insurance Agents of Texas.

(b) A member who represents the general public may not be:

- (1) an officer, director, or employee of:
 - (A) an adjuster or adjusting company;
 - (B) an insurance agent or agency;
 - (C) an insurance broker;
 - (D) an insurer; or
 - (E) any other business entity regulated by the department;
- (2) a person required to register as a lobbyist under Chapter 305, Government Code; or
- (3) a person related within the second degree of affinity or consanguinity to a person described by Subdivision (1) or (2).

(c) The advisory board shall make recommendations to the commissioner regarding:

- (1) matters related to the licensing, testing, and continuing education of licensed adjusters;
- (2) matters related to claims handling, catastrophic loss preparedness, ethical guidelines, and other professionally relevant issues; and
- (3) any other matter the commissioner submits to the advisory board for a recommendation.

(d) A member of the advisory board serves without compensation. If authorized by the commissioner, a member is entitled to reimbursement for reasonable expenses incurred in attending meetings of the advisory board.

(e) The advisory board is subject to Chapter 2110, Government Code.

The amendment to **CSHB 272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8.

Senator Carona postponed further consideration of **CSHB 272**.

Question — Shall **CSHB 272** as amended be passed to third reading?

HOUSE BILL 1720 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1720** at this time on its second reading:

HB 1720, Relating to improving health care provider accountability and efficiency under the child health plan and Medicaid programs.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1720** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 531.1131(a)(1), Government Code (page 1, line 40), between "immediately" and "notify", insert "and contemporaneously".

(2) In SECTION 2 of the bill, in added Section 531.1131(a)(1), Government Code (page 1, line 41), between "general" and the semicolon, insert "and the office of the attorney general".

(3) In SECTION 2 of the bill, in added Section 531.1131(b), Government Code (page 1, line 52), between "general" and "under", insert "and the office of the attorney general".

(4) In SECTION 2 of the bill, in added Section 531.1131(b), Government Code (page 1, line 53), strike "the office" and substitute "either office".

The amendment to **HB 1720** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1720** (Senate committee printing) as follows:

(1) In SECTION 5 of the bill, in added Section 32.068(a), Human Resources Code (page 2, line 59), strike "six-month period" and substitute "12-month period".

(2) In SECTION 5 of the bill, in added Section 32.068(b), Human Resources Code (page 2, line 67), strike "six-month period" and substitute "12-month period".

(3) In SECTION 5 of the bill, in added Section 32.068(c), Human Resources Code (page 3, line 2), immediately following the period, insert "The executive commissioner may by rule adopt limited exceptions to the requirements of this section."

The amendment to **HB 1720** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1720** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 142.001, Health and Safety Code, is amended by adding Subdivisions (11-a), (11-b), and (12-a) to read as follows:

(11-a) "Department" means the Department of Aging and Disability Services.

(11-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(12-a) "Home and community support services agency administrator" or "administrator" means the person who is responsible for implementing and supervising the administrative policies and operations of the home and community support services agency and for administratively supervising the provision of all services to agency clients on a day-to-day basis.

SECTION _____. Section 142.0025, Health and Safety Code, is amended to read as follows:

Sec. 142.0025. TEMPORARY LICENSE. If a person is in the process of becoming certified by the United States Department of Health and Human Services to qualify as a certified agency, the department may issue a temporary home and community support services agency license to the person authorizing the person to provide certified home health services. A temporary license is effective as provided by ~~board~~ rules adopted by the executive commissioner.

SECTION _____. Section 142.009, Health and Safety Code, is amended by adding Subsections (a-1) and (i) and amending Subsection (g) to read as follows:

(a-1) A license applicant or license holder must provide the department representative conducting the survey with a reasonable and safe workspace at the premises. The executive commissioner may adopt rules to implement this subsection.

(g) After a survey of a home and community support services agency by the department, the department shall provide to the home and community support services ~~chief executive officer of the~~ agency administrator:

(1) specific and timely written notice of the official findings of the survey, including:

(A) the specific nature of the survey;

(B) any alleged violations of a specific statute or rule;

(C) the specific nature of any finding regarding an alleged violation or deficiency; and

(D) if a deficiency is alleged, the severity of the deficiency;

(2) information on the identity, including the name ~~[signature]~~, of each department representative conducting or ~~[;]~~ reviewing ~~[, or approving]~~ the results of the survey and the date on which the department representative acted on the matter; and

(3) if requested by the agency, copies of all documents relating to the survey maintained by the department or provided by the department to any other state or federal agency that are not confidential under state law.

(i) Except as provided by Subsection (h), the department may not renew an initial home and community support services agency license unless the department has conducted an initial on-site survey of the agency.

SECTION _____. The heading to Section 142.0091, Health and Safety Code, is amended to read as follows:

Sec. 142.0091. ~~[SURVEYOR]~~ TRAINING.

SECTION _____. Section 142.0091, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) In developing and updating the training required by Subsection (a) ~~[this section]~~, the department shall consult with and include providers of home health, hospice, and personal assistance services, recipients of those services and their family members, and representatives of appropriate advocacy organizations.

(c) The department at least semiannually shall provide joint training for home and community support services agencies and surveyors on subjects that address the 10 most common violations of federal or state law by home and community support services agencies. The department may charge a home and community support services agency a fee, not to exceed \$50 per person, for the training.

SECTION _____. Subchapter A, Chapter 142, Health and Safety Code, is amended by adding Section 142.0104 to read as follows:

Sec. 142.0104. CHANGE IN APPLICATION INFORMATION. (a) If certain application information as specified by executive commissioner rule changes after the applicant submits an application to the department for a license under this chapter or after the department issues the license, the license holder shall report the change to the department and pay a fee not to exceed \$50 not later than the time specified by executive commissioner rule.

(b) The executive commissioner by rule shall:

(1) specify the information provided in an application that a license holder shall report to the department if the information changes;

(2) prescribe the time for reporting a change in the application information required by Subdivision (1);

(3) establish which changes required to be reported under Subdivision (1) will require department evaluation and approval; and

(4) set the amount of a late fee to be assessed against a license holder who fails to report a change in the application information within the time prescribed under Subdivision (2).

SECTION _____. Subsection (a), Section 142.011, Health and Safety Code, is amended to read as follows:

(a) The department may deny a license application or suspend or revoke the license of a person who:

(1) fails to comply with the rules or standards for licensing required by this chapter; or

(2) engages in conduct that violates Section 102.001, Occupations Code ~~[161.091]~~.

SECTION _____. Subsections (a), (b), and (c), Section 142.012, Health and Safety Code, are amended to read as follows:

(a) The executive commissioner [board, with the recommendations of the council,] shall adopt rules necessary to implement this chapter. The executive commissioner may adopt rules governing the duties and responsibilities of home and community support services agency administrators, including rules regarding:

(1) an administrator's management of daily operations of the home and community support services agency;

(2) an administrator's responsibility for supervising the provision of quality care to agency clients;

(3) an administrator's implementation of agency policy and procedures; and

(4) an administrator's responsibility to be available to the agency at all times in person or by telephone.

(b) The ~~executive commissioner~~ ~~[board]~~ by rule shall set minimum standards for home and community support services agencies licensed under this chapter that relate to:

(1) qualifications for professional and nonprofessional personnel, including volunteers;

(2) supervision of professional and nonprofessional personnel, including volunteers;

(3) the provision and coordination of treatment and services, including support and bereavement services, as appropriate;

(4) the management, ownership, and organizational structure, including lines of authority and delegation of responsibility and, as appropriate, the composition of an interdisciplinary team;

(5) clinical and business records;

(6) financial ability to carry out the functions as proposed;

(7) safety, fire prevention, and sanitary standards for residential units and inpatient units; and

(8) any other aspects of home health, hospice, or personal assistance services as necessary to protect the public.

(c) The initial minimum standards adopted ~~[by the board]~~ under Subsection (b) for hospice services must be at least as stringent as the conditions of participation for a Medicare certified provider of hospice services in effect on April 30, 1993, under Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.).

SECTION _____. As soon as practicable after the effective date of this Act but not later than July 1, 2012, the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement the changes in law made by this article to Chapter 142, Health and Safety Code.

SECTION _____. Subsection (e), Section 242.032, Health and Safety Code, is amended to read as follows:

(e) In making the evaluation required by Subsection (d), the department shall require the applicant or license holder to file a sworn affidavit of a satisfactory compliance history and any other information required by the department to substantiate a satisfactory compliance history relating to each state or other jurisdiction in which the applicant or license holder and any other person described by Subsection (d) operated an institution at any time ~~before~~ ~~[during the five year period preceding]~~ the date on which the application is made. The department by rule shall determine what constitutes a satisfactory compliance history. The department may consider and evaluate the compliance history of the applicant and any other person described by Subsection (d) for any period during which the applicant or other person operated an institution in this state or in another state or jurisdiction. The department

may also require the applicant or license holder to file information relating to the history of the financial condition of the applicant or license holder and any other person described by Subsection (d) with respect to an institution operated in another state or jurisdiction at any time before ~~[during the five-year period preceding]~~ the date on which the application is made.

SECTION _____. Subsection (b), Section 242.0615, Health and Safety Code, is amended to read as follows:

(b) Exclusion of a person under this section must extend for a period of at least two years and~~[but]~~ may extend throughout the person's lifetime or existence ~~[not exceed a period of 10 years]~~.

SECTION _____. Subsection (e), Section 242.032, Health and Safety Code, as amended by this article, applies only to an application, including a renewal application, filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION _____. Subsection (b), Section 242.0615, Health and Safety Code, as amended by this article, applies 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 the former law is continued in effect for that purpose.

SECTION _____. Section 250.001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivisions (3-a) and (3-b) to read as follows:

(1) "Nurse aide registry" means a list maintained by the ~~[Texas]~~ Department of Aging and Disability ~~[Human]~~ Services of nurse aides under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203).

(3-a) "Financial management services agency" means an entity that contracts with the Department of Aging and Disability Services to serve as a fiscal and employer agent for an individual employer in the consumer-directed service option described by Section 531.051, Government Code.

(3-b) "Individual employer" means an individual or legally authorized representative who participates in the consumer-directed service option described by Section 531.051, Government Code, and is responsible for hiring service providers to deliver program services.

SECTION _____. Section 250.002, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) A facility, a regulatory agency, a financial management services agency on behalf of an individual employer, or a private agency on behalf of a facility is entitled to obtain from the Department of Public Safety of the State of Texas criminal history record information maintained by the Department of Public Safety that relates to a person who is:

(1) an applicant for employment at a facility other than a facility licensed under Chapter 142;

(2) an employee of a facility other than a facility licensed under Chapter 142; ~~[or]~~

(3) an applicant for employment at or an employee of a facility licensed under Chapter 142 whose employment duties would or do involve direct contact with a consumer in the facility; or

(4) an applicant for employment by or an employee of an individual employer.

(c-1) A financial management services agency shall forward criminal history record information received under this section to the individual employer requesting the information.

SECTION _____. Section 250.003, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) A facility or individual employer may not employ an applicant:

(1) if the facility or individual employer determines, as a result of a criminal history check, that the applicant has been convicted of an offense listed in this chapter that bars employment or that a conviction is a contraindication to employment with the consumers the facility or individual employer serves;

(2) if the applicant is a nurse aide, until the facility further verifies that the applicant is listed in the nurse aide registry; and

(3) until the facility verifies that the applicant is not designated in the registry maintained under this chapter or in the employee misconduct registry maintained under Section 253.007 as having a finding entered into the registry concerning abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer's property.

(c-1) An individual employer shall immediately discharge any employee whose criminal history check reveals conviction of a crime that bars employment or that the individual employer determines is a contraindication to employment as provided by this chapter.

SECTION _____. Section 250.004, Health and Safety Code, is amended to read as follows:

Sec. 250.004. CRIMINAL HISTORY RECORD OF EMPLOYEES.

(a) Identifying information of an employee in a covered facility or of an employee of an individual employer shall be submitted electronically, on disk, or on a typewritten form to the Department of Public Safety to obtain the person's criminal conviction record when the person applies for employment and at other times as the facility or individual employer may determine appropriate. In this subsection, "identifying information" includes:

(1) the complete name, race, and sex of the employee;

(2) any known identifying number of the employee, including social security number, driver's license number, or state identification number; and

(3) the employee's date of birth.

(b) If the Department of Public Safety reports that a person has a criminal conviction of any kind, the conviction shall be reviewed by the facility, the financial management services agency, or the individual employer to determine if the conviction may bar the person from employment in a facility or by the individual employer under Section 250.006 or if the conviction may be a contraindication to employment.

SECTION _____. Section 250.005, Health and Safety Code, is amended to read as follows:

Sec. 250.005. NOTICE AND OPPORTUNITY TO BE HEARD CONCERNING ACCURACY OF INFORMATION. (a) If a facility, financial management services agency, or individual employer believes that a conviction may bar a person from employment in a facility or by the individual employer under Section 250.006 or may be a contraindication to employment, the facility or individual employer shall notify the applicant or employee.

(b) The Department of Public Safety of the State of Texas shall give a person notified under Subsection (a) the opportunity to be heard concerning the accuracy of the criminal history record information and shall notify the facility or individual employer if inaccurate information is discovered.

SECTION _____. Subsections (a) and (b), Section 250.006, Health and Safety Code, are amended to read as follows:

(a) A person for whom the facility or the individual employer is entitled to obtain criminal history record information may not be employed in a facility or by an individual employer if the person has been convicted of an offense listed in this subsection:

- (1) an offense under Chapter 19, Penal Code (criminal homicide);
- (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
- (3) an offense under Section 21.02, Penal Code (continuous sexual abuse of young child or children), or Section 21.11, Penal Code (indecent with a child);
- (4) an offense under Section 22.011, Penal Code (sexual assault);
- (5) an offense under Section 22.02, Penal Code (aggravated assault);
- (6) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
- (7) an offense under Section 22.041, Penal Code (abandoning or endangering child);
- (8) an offense under Section 22.08, Penal Code (aiding suicide);
- (9) an offense under Section 25.031, Penal Code (agreement to abduct from custody);
- (10) an offense under Section 25.08, Penal Code (sale or purchase of a child);
- (11) an offense under Section 28.02, Penal Code (arson);
- (12) an offense under Section 29.02, Penal Code (robbery);
- (13) an offense under Section 29.03, Penal Code (aggravated robbery);
- (14) an offense under Section 21.08, Penal Code (indecent exposure);
- (15) an offense under Section 21.12, Penal Code (improper relationship between educator and student);
- (16) an offense under Section 21.15, Penal Code (improper photography or visual recording);
- (17) an offense under Section 22.05, Penal Code (deadly conduct);
- (18) an offense under Section 22.021, Penal Code (aggravated sexual assault);
- (19) an offense under Section 22.07, Penal Code (terroristic threat);

(20) an offense under Section 33.021, Penal Code (online solicitation of a minor);

(21) an offense under Section 34.02, Penal Code (money laundering);

(22) an offense under Section 35A.02, Penal Code (Medicaid fraud);

(23) an offense under Section 42.09, Penal Code (cruelty to animals); or

(24) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed by this subsection.

(b) A person may not be employed in a position the duties of which involve direct contact with a consumer in a facility or may not be employed by an individual employer before the fifth anniversary of the date the person is convicted of:

(1) an offense under Section 22.01, Penal Code (assault), that is punishable as a Class A misdemeanor or as a felony;

(2) an offense under Section 30.02, Penal Code (burglary);

(3) an offense under Chapter 31, Penal Code (theft), that is punishable as a felony;

(4) an offense under Section 32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor or a felony;

(5) an offense under Section 32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor or a felony;

(6) an offense under Section 37.12, Penal Code (false identification as peace officer); or

(7) an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly conduct).

SECTION _____. Subsections (a) and (b), Section 250.007, Health and Safety Code, are amended to read as follows:

(a) The criminal history records are for the exclusive use of the regulatory agency, the requesting facility, the private agency on behalf of the requesting facility, the financial management services agency on behalf of the individual employer, the individual employer, and the applicant or employee who is the subject of the records.

(b) All criminal records and reports and the information they contain that are received by the regulatory agency or private agency for the purpose of being forwarded to the requesting facility or received by the financial management services agency under this chapter are privileged information.

SECTION _____. Subsection (a), Section 250.009, Health and Safety Code, is amended to read as follows:

(a) A facility, ~~or~~ an officer or employee of a facility, a financial management services agency, or an individual employer is not civilly liable for failure to comply with this chapter if the facility, financial management services agency, or individual employer makes a good faith effort to comply.

SECTION _____. Section 411.1143, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The Health and Human Services Commission, ~~or~~ an agency operating part of the medical assistance program under Chapter 32, Human Resources Code, or the office of inspector general established under Chapter 531, Government Code, is

entitled to obtain from the department the criminal history record information maintained by the department that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(a-1) Criminal history record information an agency or the office of inspector general is authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1) a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2) a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

SECTION _____. Subdivision (2), Subsection (g), Section 531.102, Government Code, is amended to read as follows:

(2) In addition to other instances authorized under state or federal law, the office shall impose without prior notice a hold on payment of claims for reimbursement submitted by a provider to compel production of records, ~~[or]~~ when requested by the state's Medicaid fraud control unit, or on receipt of reliable evidence that the circumstances giving rise to the hold on payment involve fraud or wilful misrepresentation under the state Medicaid program in accordance with 42 C.F.R. Section 455.23, as applicable. The office must notify the provider of the hold on payment in accordance with 42 C.F.R. Section 455.23(b) ~~[not later than the fifth working day after the date the payment hold is imposed].~~

SECTION _____. The heading to Section 531.1031, Government Code, is amended to read as follows:

Sec. 531.1031. DUTY TO EXCHANGE INFORMATION ~~[REGARDING ALLEGATIONS OF MEDICAID FRAUD OR ABUSE].~~

SECTION _____. Subdivision (2), Subsection (a), Section 531.1031, Government Code, is amended to read as follows:

(2) "Participating agency" means:

(A) the Medicaid fraud enforcement divisions of the office of the attorney general; ~~[and]~~

(B) each board or agency with authority to license, register, regulate, or certify a health care professional or managed care organization that may participate in the state Medicaid program; and

(C) the commission's office of inspector general.

SECTION _____. Section 531.1031, Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (c-1) to read as follows:

(b) This section applies only to criminal history record information held by a participating agency that relates to a health care professional and information held by a participating agency that relates to a health care professional or managed care organization that is the subject of an investigation by a participating agency for alleged fraud or abuse under the state Medicaid program.

(c) A participating agency may submit to another participating agency a written request for information described by Subsection (b) regarding a health care professional or managed care organization ~~[that is the subject of an investigation by~~

~~the participating agency to any other participating agency].~~ The participating agency that receives the request shall provide the requesting agency with the information regarding the health care professional or managed care organization unless:

(1) the release of the information would jeopardize an ongoing investigation or prosecution by the participating agency with possession of the information; or

(2) the release of the information is prohibited by other law.

(c-1) Notwithstanding any other law, a participating agency may enter into a memorandum of understanding or agreement with another participating agency for the purpose of exchanging criminal history record information relating to a health care professional that both participating agencies are authorized to access under Chapter 411. Confidential criminal history record information in the possession of a participating agency that is provided to another participating agency in accordance with this subsection remains confidential while in the possession of the participating agency that receives the information.

SECTION _____. Section 32.0322, Human Resources Code, is amended to read as follows:

Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION; ENROLLMENT OF PROVIDERS. (a) The department or the office of inspector general established under Chapter 531, Government Code, may obtain from any law enforcement or criminal justice agency the criminal history record information that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(a-1) The criminal history record information the department and the office of inspector general are authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1) a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2) a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

(b) The executive commissioner of the Health and Human Services Commission [department] by rule shall establish criteria for the department or the commission's office of inspector general to suspend a provider's billing privileges under the medical assistance program, revoke [revoking] a provider's enrollment under the program, or deny [denying] a person's application to enroll as a provider under the [medical assistance] program based on:

(1) the results of a criminal history check;

(2) any exclusion or debarment of the provider from participation in a state or federally funded health care program;

(3) the provider's failure to bill for medical assistance or refer clients for medical assistance within a 12-month period; or

(4) any of the provider screening or enrollment provisions contained in 42 C.F.R. Part 455, Subpart E.

(c) As a condition of eligibility to participate as a provider in the medical assistance program, the executive commissioner of the Health and Human Services Commission by rule shall:

(1) require a provider or a person applying to enroll as a provider to disclose:

- (A) all persons described by Subsection (a-1)(1);
- (B) any managing employees of the provider; and
- (C) an agent or subcontractor of the provider if:

(i) the provider or a person described by Subsection (a-1)(1) has a direct or indirect ownership interest of at least five percent in the agent or subcontractor; or

(ii) the provider engages in a business transaction with the agent or subcontractor that meets the criteria specified by 42 C.F.R. Section 455.105; and

(2) require disclosure by persons applying for enrollment as providers and provide for screening of applicants for enrollment in conformity and compliance with the requirements of 42 C.F.R. Part 455, Subparts B and E.

(d) In adopting rules under this section, the executive commissioner of the Health and Human Services Commission shall adopt rules as authorized by and in conformity with 42 C.F.R. Section 455.470 for the imposition of a temporary moratorium on enrollment of new providers, or to impose numerical caps or other limits on the enrollment of providers, that the department or the commission's office of inspector general, in consultation with the department, determines have a significant potential for fraud, waste, or abuse.

SECTION _____. Section 32.039, Human Resources Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A person commits a violation if the person:

(1) presents or causes to be presented to the department a claim that contains a statement or representation the person knows or should know to be false;

(1-a) engages in conduct that violates Section 102.001, Occupations Code;

(1-b) solicits or receives, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind for referring an individual to a person for the furnishing of, or for arranging the furnishing of, any item or service for which payment may be made, in whole or in part, under the medical assistance program, provided that this subdivision does not prohibit the referral of a patient to another practitioner within a multispecialty group or university medical services research and development plan (practice plan) for medically necessary services;

(1-c) solicits or receives, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind for purchasing, leasing, or ordering, or arranging for or recommending the purchasing, leasing, or ordering of, any good, facility, service, or item for which payment may be made, in whole or in part, under the medical assistance program;

(1-d) offers or pays, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind to induce a person to refer an individual to another person for the furnishing of, or for arranging the furnishing of, any item or service for which payment may be made, in whole or in part, under the medical assistance program, provided that this subdivision does not

prohibit the referral of a patient to another practitioner within a multispecialty group or university medical services research and development plan (practice plan) for medically necessary services;

(1-e) offers or pays, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind to induce a person to purchase, lease, or order, or arrange for or recommend the purchase, lease, or order of, any good, facility, service, or item for which payment may be made, in whole or in part, under the medical assistance program;

(1-f) provides, offers, or receives an inducement in a manner or for a purpose not otherwise prohibited by this section or Section 102.001, Occupations Code, to or from a person, including a recipient, provider, employee or agent of a provider, third-party vendor, or public servant, for the purpose of influencing or being influenced in a decision regarding:

(A) selection of a provider or receipt of a good or service under the medical assistance program;

(B) the use of goods or services provided under the medical assistance program; or

(C) the inclusion or exclusion of goods or services available under the medical assistance program; ~~or~~

(2) is a managed care organization that contracts with the department to provide or arrange to provide health care benefits or services to individuals eligible for medical assistance and:

(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract with the department;

(B) fails to provide to the department information required to be provided by law, department rule, or contractual provision;

(C) engages in a fraudulent activity in connection with the enrollment in the organization's managed care plan of an individual eligible for medical assistance or in connection with marketing the organization's services to an individual eligible for medical assistance; or

(D) engages in actions that indicate a pattern of:

(i) wrongful denial of payment for a health care benefit or service that the organization is required to provide under the contract with the department; or

(ii) wrongful delay of at least 45 days or a longer period specified in the contract with the department, not to exceed 60 days, in making payment for a health care benefit or service that the organization is required to provide under the contract with the department; or

(3) fails to maintain documentation to support a claim for payment in accordance with the requirements specified by department rule or medical assistance program policy or engages in any other conduct that a department rule has defined as a violation of the medical assistance program.

(b-1) A person who commits a violation described by Subsection (b)(3) is liable to the department for either the amount paid in response to the claim for payment or the payment of an administrative penalty in an amount not to exceed \$500 for each violation, as determined by the department.

SECTION _____. Subsection (a), Section 103.009, Human Resources Code, is amended to read as follows:

(a) The department may deny, suspend, or revoke the license of an applicant or holder of a license who fails to comply with the rules or standards for licensing required by this chapter or has committed an act described by Sections 103.012(a)(2)-(7).

SECTION _____. Chapter 103, Human Resources Code, is amended by adding Sections 103.012 through 103.016 to read as follows:

Sec. 103.012. ADMINISTRATIVE PENALTY. (a) The department may assess an administrative penalty against a person who:

(1) violates this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter;

(2) makes a false statement of a material fact that the person knows or should know is false:

(A) on an application for issuance or renewal of a license or in an attachment to the application; or

(B) with respect to a matter under investigation by the department;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by an adult day-care facility; or

(B) any portion of the premises of an adult day-care facility;

(4) wilfully interferes with the work of a representative of the department or the enforcement of this chapter;

(5) wilfully interferes with a representative of the department preserving evidence of a violation of this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter;

(6) fails to pay a penalty assessed under this chapter not later than the 30th day after the date the assessment of the penalty becomes final; or

(7) fails to notify the department of a change of ownership before the effective date of the change of ownership.

(b) Except as provided by Section 103.013(c), the penalty may not exceed \$500 for each violation.

(c) Each day of a continuing violation constitutes a separate violation.

(d) The department shall establish gradations of penalties in accordance with the relative seriousness of the violation.

(e) In determining the amount of a penalty, the department shall consider any matter that justice may require, including:

(1) the gradations of penalties established under Subsection (d);

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act and the hazard or potential hazard created by the act to the health or safety of the public;

(3) the history of previous violations;

(4) the deterrence of future violations; and

(5) the efforts to correct the violation.

(f) A penalty assessed under Subsection (a)(6) is in addition to the penalty previously assessed and not timely paid.

Sec. 103.013. RIGHT TO CORRECT BEFORE IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may not collect an administrative penalty from an adult day-care facility under Section 103.012 if, not later than the 45th day after the date the facility receives notice under Section 103.014(c), the facility corrects the violation.

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

(1) a violation that the department determines:

(A) results in serious harm to or death of a person attending the facility;

(B) constitutes a serious threat to the health and safety of a person attending the facility; or

(C) substantially limits the facility's capacity to provide care;

(2) a violation described by Sections 103.012(a)(2)-(7); or

(3) a violation of Section 103.011.

(c) An adult day-care facility that corrects a violation must maintain the correction. If the facility fails to maintain the correction until at least the first anniversary after the date the correction was made, the department may assess and collect an administrative penalty for the subsequent violation. An administrative penalty assessed under this subsection is equal to three times the amount of the original penalty assessed but not collected. The department is not required to provide the facility with an opportunity under this section to correct the subsequent violation.

Sec. 103.014. REPORT RECOMMENDING ADMINISTRATIVE PENALTY; NOTICE. (a) The department shall issue a preliminary report stating the facts on which the department concludes that a violation of this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter has occurred if the department has:

(1) examined the possible violation and facts surrounding the possible violation; and

(2) concluded that a violation has occurred.

(b) The report may recommend a penalty under Section 103.012 and the amount of the penalty.

(c) The department shall give written notice of the report to the person charged with the violation not later than the 10th day after the date on which the report is issued. The notice must include:

(1) a brief summary of the charges;

(2) a statement of the amount of penalty recommended;

(3) a statement of whether the violation is subject to correction under Section 103.013 and, if the violation is subject to correction under that section, a statement of:

(A) the date on which the adult day-care facility must file a plan of correction with the department that the department shall review and may approve, if satisfactory; and

(B) the date on which the plan of correction must be completed to avoid assessment of the penalty; and

(4) a statement that the person charged has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(d) Not later than the 20th day after the date on which the notice under Subsection (c) is received, the person charged may:

(1) give to the department written notice that the person agrees with the department's report and consents to the recommended penalty; or

(2) make a written request for a hearing.

(e) If the violation is subject to correction under Section 103.013, the adult day-care facility shall submit a plan of correction to the department for approval not later than the 10th day after the date on which the notice under Subsection (c) is received.

(f) If the violation is subject to correction under Section 103.013 and the person reports to the department that the violation has been corrected, the department shall inspect the correction or take any other step necessary to confirm the correction and shall notify the person that:

(1) the correction is satisfactory and a penalty will not be assessed; or

(2) the correction is not satisfactory and a penalty is recommended.

(g) Not later than the 20th day after the date on which a notice under Subsection (f)(2) is received, the person charged with the violation may:

(1) give to the department written notice that the person agrees with the department's report and consents to the recommended penalty; or

(2) make a written request for a hearing.

(h) If the person charged with the violation consents to the penalty recommended by the department or does not timely respond to a notice sent under Subsection (c) or (f)(2), the department's commissioner or the commissioner's designee shall assess the penalty recommended by the department.

(i) If the department's commissioner or the commissioner's designee assesses the recommended penalty, the department shall give written notice of the decision to the person charged with the violation and the person shall pay the penalty.

Sec. 103.015. ADMINISTRATIVE PENALTY HEARING. (a) An administrative law judge shall order a hearing and give notice of the hearing if a person assessed a penalty under Section 103.013(c) requests a hearing.

(b) The hearing shall be held before an administrative law judge.

(c) The administrative law judge shall make findings of fact and conclusions of law regarding the occurrence of a violation of this chapter, a rule or order adopted under this chapter, or a term of a license issued under this chapter.

(d) Based on the findings of fact and conclusions of law, and the recommendation of the administrative law judge, the department's commissioner or the commissioner's designee by order shall find:

(1) a violation has occurred and assess an administrative penalty; or

(2) a violation has not occurred.

(e) Proceedings under this section are subject to Chapter 2001, Government Code.

Sec. 103.016. NOTICE AND PAYMENT OF ADMINISTRATIVE PENALTY; INTEREST; REFUND. (a) The department's commissioner or the commissioner's designee shall give notice of the findings made under Section 103.015(d) to the

person charged with a violation. If the commissioner or the commissioner's designee finds that a violation has occurred, the commissioner or the commissioner's designee shall give to the person charged written notice of:

(1) the findings;

(2) the amount of the administrative penalty;

(3) the rate of interest payable with respect to the penalty and the date on which interest begins to accrue; and

(4) the person's right to judicial review of the order of the commissioner or the commissioner's designee.

(b) Not later than the 30th day after the date on which the order of the department's commissioner or the commissioner's designee is final, the person assessed the penalty shall:

(1) pay the full amount of the penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(c) Notwithstanding Subsection (b), the department may permit the person to pay a penalty in installments.

(d) If the person does not pay the penalty within the period provided by Subsection (b) or in accordance with Subsection (c), if applicable:

(1) the penalty is subject to interest; and

(2) the department may refer the matter to the attorney general for collection of the penalty and interest.

(e) Interest under Subsection (d)(1) accrues:

(1) at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank; and

(2) for the period beginning on the day after the date on which the penalty becomes due and ending on the date the penalty is paid.

(f) If the amount of the penalty is reduced or the assessment of a penalty is not upheld on judicial review, the department's commissioner or the commissioner's designee shall:

(1) remit to the person charged the appropriate amount of any penalty payment plus accrued interest; or

(2) execute a release of the supersedeas bond if one has been posted.

(g) Accrued interest on the amount remitted by the department's commissioner or the commissioner's designee under Subsection (f)(1) shall be paid:

(1) at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank; and

(2) for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted to the person charged with the violation.

SECTION ____ . Section 22.039(c), Human Resources Code, is amended to read as follows:

(c) The department shall semiannually provide training for surveyors and providers on subjects that address ~~[at least one of]~~ the 10 most common violations by long-term care facilities of ~~[under]~~ federal or state law. The department may charge a fee not to exceed \$50 per person for the training.

SECTION _____. As soon as practicable after the effective date of this Act but not later than July 1, 2012, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Section 22.039, Human Resources Code, as amended by this article.

SECTION _____. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

The amendment to **HB 1720** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

On motion of Senator Patrick and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1720 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1720 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1720** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Eltife in Chair)

CONFERENCE COMMITTEE ON HOUSE BILL 275

Senator Ogden 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 275** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 275** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ogden, Chair; Patrick, Fraser, Duncan, and Eltife.

HOUSE BILL 2889 ON SECOND READING

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **HB 2889** at this time on its second reading:

HB 2889, Relating to the expunction of records and files relating to a person's arrest.

The motion prevailed.

Senators Huffman, Nelson, Nichols, Patrick, and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Huffman, Nelson, Nichols, Patrick, Shapiro.

HOUSE BILL 2889 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2889** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Huffman, Nelson, Nichols, Patrick, Shapiro.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

HOUSE CONCURRENT RESOLUTION 163

The Presiding Officer laid before the Senate the following resolution:

HCR 163, Convening a joint memorial session to honor Texans killed while serving in the Global War on Terrorism, commemorating Memorial Day 2011, and paying tribute to all those who have died in the service of the United States.

VAN DE PUTTE

The resolution was read.

On motion of Senator Van de Putte and by unanimous consent, 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.

CONFERENCE COMMITTEE ON HOUSE BILL 2694

Senator Huffman 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 2694** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2694** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Huffman, Chair; Hegar, Hinojosa, Fraser, and Nichols.

HOUSE BILL 2093 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2093** be placed on its third reading and final passage:

HB 2093, Relating to the operation and regulation of certain consolidated insurance programs.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Birdwell, Nelson, Nichols, Patrick, Uresti.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 8.

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

Nays: Birdwell, Fraser, Huffman, Nelson, Nichols, Patrick, Shapiro, Uresti.

(President in Chair)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Monday, May 23, 2011 - 4

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:

SB 19 Nichols Sponsor: Smith, Wayne
Relating to the development, financing, construction, and operation of certain toll projects.

SB 89 Lucio Sponsor: Rodriguez, Eddie
Relating to summer nutrition programs provided for by school districts.
(Amended)

- SB 144** West Sponsor: Thompson
Relating to allowing a person who successfully completes a term of deferred adjudication community supervision to be eligible for a pardon.
(Amended)
- SB 167** West Sponsor: Veasey
Relating to the automatic expunction of arrest records and files after an individual receives a pardon or a grant of certain other relief with respect to the offense for which the individual was arrested.
(Amended)
- SB 218** Nelson Sponsor: Dukes
Relating to procedures in certain suits affecting the parent-child relationship and the operation of the child protective services and foster care systems.
(Committee Substitute/Amended)
- SB 220** Nelson Sponsor: Naishtat
Relating to guardianships, including the assessment of prospective wards for, and the provision of, guardianship services by the Department of Aging and Disability Services.
(Committee Substitute)
- SB 229** Nelson Sponsor: King, Susan
Relating to newborn hearing screenings and hearing services for certain children.
(Committee Substitute)
- SB 449** Watson Sponsor: Ritter
Relating to the appraisal for ad valorem tax purposes of open-space land devoted to water stewardship purposes on the basis of its productive capacity.
- SB 469** Nelson Sponsor: Patrick, Diane
Relating to the collection of unpaid tolls by a regional tollway authority.
(Committee Substitute)
- SB 480** Hegar Sponsor: Gallego
Relating to certain appeals from judgments of municipal courts of record and to the recusal or disqualification of municipal judges.
(Amended)
- SB 548** Nichols Sponsor: Darby
Relating to the environmental review process for transportation projects.
(Amended)
- SB 554** Carona Sponsor: Lozano
Relating to contracts between dentists and health maintenance organizations or insurers.
- SB 563** Jackson Sponsor: Torres
Relating to the efficiency of the operations of, and certain information regarding services provided by, the Texas Workforce Commission; providing a criminal penalty.
(Amended)
- SB 577** Duncan Sponsor: Frullo
Relating to the use of facsimile signatures for certain documents involving certain municipalities.

- SB 701** Watson Sponsor: Strama
Relating to high-value data sets of state agencies posted on the Internet.
(Committee Substitute)
- SB 760** West Sponsor: Turner
Relating to the term and renewal of interlocal contracts.
(Committee Substitute)
- SB 767** Ellis Sponsor: Alvarado
Relating to the regulation of certain residential mortgage foreclosure consulting services; providing a criminal penalty.
(Amended)
- SB 789** Harris Sponsor: Thompson
Relating to the duration of a protective order against family violence.
(Amended)
- SB 802** Hegar Sponsor: Hunter
Relating to allowing the Aransas County Commissioners Court to charge interest on assessments for certain county road improvements.
(Amended)
- SB 804** Hegar Sponsor: Hunter
Relating to the use of revenue from the hotel occupancy tax by certain counties.
(Committee Substitute)
- SB 812** Zaffirini Sponsor: Raymond
Relating to the resumption of employment by certain retirees within the Texas Municipal Retirement System.
(Committee Substitute)
- SB 819** Harris Sponsor: Thompson
Relating to family violence and protective orders.
(Amended)
- SB 898** Carona Sponsor: Cook
Relating to energy efficiency programs in institutions of higher education and certain governmental entities.
- SB 901** Hegar Sponsor: Kolkhorst
Relating to approval from the Department of State Health Services for disposal of ambulances purchased with certain grant funds.
- SB 917** Wentworth Sponsor: Miller, Doug
Relating to emergency service districts.
(Committee Substitute)
- SB 993** Uresti Sponsor: Rodriguez, Eddie
Relating to the removal of a child by the Department of Family and Protective Services, including certain arrangements to provide care for a child during an investigation of abuse or neglect.
(Amended)
- SB 1020** Rodriguez Sponsor: Marquez
Relating to a feasibility study regarding the establishment of a dental school at the Texas Tech University Health Sciences Center at El Paso.

SB 1133 Hegar Sponsor: Harless
Relating to a report by the Public Utility Commission of Texas on the ability of electric generators to respond to abnormal weather conditions.

SB 1198 Rodriguez Sponsor: Hartnett
Relating to decedents' estates.
(Amended)

SB 1342 Seliger Sponsor: Geren
Relating to the use of bingo proceeds by licensed authorized organizations, including the use of proceeds to provide health insurance or health insurance benefits to certain employees.

SB 1368 West Sponsor: Deshotel
Relating to the authority of a co-owner of residential property to encumber the property.

SB 1484 Shapiro Sponsor: Strama
Relating to authorizing open-enrollment charter schools to be awarded academic distinction designations.

SB 1596 Wentworth Sponsor: Isaac
Relating to changes in participation in public utility agencies.

SB 1681 Ellis Sponsor: Thompson
Relating to the appointment of counsel and the rights of an accused and other requirements for the purposes of appellate proceedings or community supervision revocation proceedings.

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 1665, Pursuant to Rule 13, Section 5A of the Rules of the Texas House, 82nd Legislature, the House returns HB 1665 to the Senate for further consideration.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 1286

Senator Davis 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 1286** 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 1286** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Davis, Chair; Deuell, Ogden, Patrick, and Nichols.

CONFERENCE COMMITTEE ON HOUSE BILL 2457

Senator Jackson 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 2457** 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 2457** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Jackson, Chair; Watson, Eltife, Shapiro, and Fraser.

CONFERENCE COMMITTEE ON HOUSE BILL 2154

Senator Ellis 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 2154** 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 2154** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Duncan, Deuell, Lucio, and Van de Putte.

CONFERENCE COMMITTEE ON HOUSE BILL 3302

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 3302** 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 3302** 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; Jackson, Eltife, Hinojosa, and Patrick.

CONFERENCE COMMITTEE ON HOUSE BILL 3726

Senator Van de Putte 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 3726** 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 3726** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Wentworth, Eltife, Zaffirini, and Uresti.

SENATE BILL 23 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 23** 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 23** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the administration of and efficiency, cost-saving, fraud prevention, and funding measures for certain health and human services and health benefits programs, including the medical assistance and child health plan programs.

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

SECTION 1. SEXUAL ASSAULT PROGRAM FUND; FEE IMPOSED ON CERTAIN SEXUALLY ORIENTED BUSINESSES. (a) Section 102.054, Business & Commerce Code, is amended to read as follows:

Sec. 102.054. ALLOCATION OF ~~[CERTAIN]~~ REVENUE FOR SEXUAL ASSAULT PROGRAMS. The comptroller shall deposit the amount ~~[first \$25 million]~~ received from the fee imposed under this subchapter ~~[in a state fiscal biennium]~~ to the credit of the sexual assault program fund.

(b) Section 420.008, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The legislature may appropriate money deposited to the credit of the fund only to:

(1) the attorney general, for:

(A) sexual violence awareness and prevention campaigns;

(B) grants to faith-based groups, independent school districts, and community action organizations for programs for the prevention of sexual assault and programs for victims of human trafficking;

(C) grants for equipment for sexual assault nurse examiner programs, to support the preceptorship of future sexual assault nurse examiners, and for the continuing education of sexual assault nurse examiners;

(D) grants to increase the level of sexual assault services in this state;

(E) grants to support victim assistance coordinators;

(F) grants to support technology in rape crisis centers;

(G) grants to and contracts with a statewide nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose ending sexual violence in this state, for

programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence; ~~and~~

(H) grants to regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims; and

(I) grants to health science centers and related nonprofit entities exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code, for research relating to the prevention and mitigation of sexual assault;

(2) the Department of State Health Services, to measure the prevalence of sexual assault in this state and for grants to support programs assisting victims of human trafficking;

(3) the Institute on Domestic Violence and Sexual Assault at The University of Texas at Austin, to conduct research on all aspects of sexual assault and domestic violence;

(4) Texas State University, for training and technical assistance to independent school districts for campus safety;

(5) the office of the governor, for grants to support sexual assault and human trafficking prosecution projects;

(6) the Department of Public Safety, to support sexual assault training for commissioned officers;

(7) the comptroller's judiciary section, for increasing the capacity of the sex offender civil commitment program;

(8) the Texas Department of Criminal Justice:

(A) for pilot projects for monitoring sex offenders on parole; and

(B) for increasing the number of adult incarcerated sex offenders receiving treatment;

(9) the Texas Youth Commission, for increasing the number of incarcerated juvenile sex offenders receiving treatment;

(10) the comptroller, for the administration of the fee imposed on sexually oriented businesses under Section 102.052, Business & Commerce Code; ~~and~~

(11) the supreme court, to be transferred to the Texas Equal Access to Justice Foundation, or a similar entity, to provide victim-related legal services to sexual assault victims, including legal assistance with protective orders, relocation-related matters, victim compensation, and actions to secure privacy protections available to victims under law; and

(12) the Department of Family and Protective Services for:

(A) programs related to sexual assault prevention and intervention; and

(B) research relating to how the department can effectively address the prevention of sexual assault.

(d) A board, commission, department, office, or other agency in the executive or judicial branch of state government to which money is appropriated from the sexual assault program fund under this section shall, not later than December 1 of each even-numbered year, provide to the Legislative Budget Board a report stating, for the preceding fiscal biennium:

(1) the amount appropriated to the entity under this section;

(2) the purposes for which the money was used; and

(3) any results of a program or research funded under this section.

(c) The comptroller of public accounts shall collect the fee imposed under Section 102.052, Business & Commerce Code, until a court, in a final judgment upheld on appeal or no longer subject to appeal, finds Section 102.052, Business & Commerce Code, or its predecessor statute, to be unconstitutional.

(d) Section 102.055, Business & Commerce Code, is repealed.

(e) This section prevails over any other Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment, that purports to amend or repeal Subchapter B, Chapter 102, Business & Commerce Code, or any provision of Chapter 1206 (H.B. 175), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 2. OBJECTIVE ASSESSMENT PROCESSES FOR CERTAIN MEDICAID SERVICES. Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.02417 and 531.024171 to read as follows:

Sec. 531.02417. MEDICAID NURSING SERVICES ASSESSMENTS. (a) In this section, "acute nursing services" means home health skilled nursing services, home health aide services, and private duty nursing services.

(b) The commission may develop an objective assessment process for use in assessing a Medicaid recipient's needs for acute nursing services. The commission may require that:

(1) the assessment be conducted:

(A) if cost-effective and in the best interests of the recipient, by a state employee or contractor who is not the person who will deliver any necessary services to the recipient and is not affiliated with the person who will deliver those services; and

(B) in a timely manner so as to protect the health and safety of the recipient by avoiding unnecessary delays in service delivery; and

(2) the process include:

(A) an assessment of specified criteria and documentation of the assessment results on a standard form;

(B) an assessment of whether the recipient should be referred for additional assessments regarding the recipient's needs for therapy services, as defined by Section 531.024171, attendant care services, and durable medical equipment; and

(C) completion by the person conducting the assessment of any documents related to obtaining prior authorization for necessary nursing services.

(c) If the commission develops the objective assessment process under Subsection (b), the commission shall:

(1) implement the process within the Medicaid fee-for-service model and the primary care case management Medicaid managed care model; and

(2) take necessary actions, including modifying contracts with managed care organizations under Chapter 533 to the extent allowed by law, to implement the process within the STAR and STAR + PLUS Medicaid managed care programs.

Sec. 531.024171. THERAPY SERVICES ASSESSMENTS. (a) In this section, "therapy services" includes occupational, physical, and speech therapy services.

(b) If the commission implements the objective assessment process for acute nursing services as authorized by Section 531.02417, the commission shall consider whether implementing an objective assessment process for assessing the needs of a Medicaid recipient for therapy services that is comparable to the process required under Section 531.02417 for acute nursing services would be feasible and beneficial.

(c) If the commission determines that implementing a comparable process with respect to one or more types of therapy services is feasible and would be beneficial, the commission may implement the process within:

- (1) the Medicaid fee-for-service model;
- (2) the primary care case management Medicaid managed care model; and
- (3) the STAR and STAR + PLUS Medicaid managed care programs.

SECTION 3. MEDICAID MANAGED CARE PROGRAM. (a) Section 533.0025(e), Government Code, is amended to read as follows:

(e) Each managed care organization that operates within the South Texas service delivery area must maintain a medical director within the service delivery area whose duties include overseeing and managing the managed care organization medical necessity determination process. The medical director:

(1) may be a managed care organization employee or be under contract with the managed care organization;

(2) must be available for peer-to-peer discussions about managed care organization medical necessity determinations and other managed care organization clinical policies; and

(3) may not be affiliated with any hospital, clinic, or other health care related institution or business that operates within the service delivery area [Notwithstanding Subsection (b)(1), the commission may not provide medical assistance using a health maintenance organization in Cameron County, Hidalgo County, or Maverick County].

(b) Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.0027, 533.0028, and 533.0029 to read as follows:

Sec. 533.0027. PROCEDURES TO ENSURE CERTAIN RECIPIENTS ARE ENROLLED IN SAME MANAGED CARE PLAN. The commission shall ensure that all recipients who are children and who reside in the same household may, at the family's election, be enrolled in the same managed care plan.

Sec. 533.0028. EVALUATION OF CERTAIN STAR + PLUS MEDICAID MANAGED CARE PROGRAM SERVICES. The external quality review organization shall periodically conduct studies and surveys to assess the quality of care and satisfaction with health care services provided to enrollees in the STAR + PLUS Medicaid managed care program who are eligible to receive health care benefits under both the Medicaid and Medicare programs.

Sec. 533.0029. PROMOTION AND PRINCIPLES OF PATIENT-CENTERED MEDICAL HOMES FOR RECIPIENTS. (a) For purposes of this section, a "patient-centered medical home" means a medical relationship:

(1) between a primary care physician and a child or adult patient in which the physician:

- (A) provides comprehensive primary care to the patient; and

(B) facilitates partnerships between the physician, the patient, acute care and other care providers, and, when appropriate, the patient's family; and

(2) that encompasses the following primary principles:

(A) the patient has an ongoing relationship with the physician, who is trained to be the first contact for the patient and to provide continuous and comprehensive care to the patient;

(B) the physician leads a team of individuals at the practice level who are collectively responsible for the ongoing care of the patient;

(C) the physician is responsible for providing all of the care the patient needs or for coordinating with other qualified providers to provide care to the patient throughout the patient's life, including preventive care, acute care, chronic care, and end-of-life care;

(D) the patient's care is coordinated across health care facilities and the patient's community and is facilitated by registries, information technology, and health information exchange systems to ensure that the patient receives care when and where the patient wants and needs the care and in a culturally and linguistically appropriate manner; and

(E) quality and safe care is provided.

(b) The commission shall, to the extent possible, work to ensure that managed care organizations:

(1) promote the development of patient-centered medical homes for recipients; and

(2) provide payment incentives for providers that meet the requirements of a patient-centered medical home.

(c) Section 533.003, Government Code, is amended to read as follows:

Sec. 533.003. CONSIDERATIONS IN AWARDING CONTRACTS. In awarding contracts to managed care organizations, the commission shall:

(1) give preference to organizations that have significant participation in the organization's provider network from each health care provider in the region who has traditionally provided care to Medicaid and charity care patients;

(2) give extra consideration to organizations that agree to assure continuity of care for at least three months beyond the period of Medicaid eligibility for recipients;

(3) consider the need to use different managed care plans to meet the needs of different populations; ~~and~~

(4) consider the ability of organizations to process Medicaid claims electronically; and

(5) give extra consideration in each health care service region to an organization that:

(A) is locally owned, managed, and operated, if one exists; or

(B) notwithstanding Section 533.004 or any other law, is not owned or operated by and does not have a contract, agreement, or other arrangement with a hospital district in the region.

(d) Section 533.005(a), Government Code, is amended to read as follows:

(a) A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification date;

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal;

(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of inspector general and the office of the attorney general;

(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission;

(12) if the commission finds that a managed care organization has violated Subdivision (11), a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code;

(13) a requirement that the organization use advanced practice nurses in addition to physicians as primary care providers to increase the availability of primary care providers in the organization's provider network;

(14) a requirement that the managed care organization reimburse a federally qualified health center or rural health clinic for health care services provided to a recipient outside of regular business hours, including on a weekend day or holiday, at

a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, if the recipient does not have a referral from the recipient's primary care physician; ~~and~~

(15) a requirement that the managed care organization develop, implement, and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require:

(A) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal;

(B) the contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes related to denial on the basis of medical necessity that remain unresolved subsequent to a provider appeal; and

(C) the determination of the physician resolving the dispute to be binding on the managed care organization and provider;

(16) a requirement that a medical director who is authorized to make medical necessity determinations is available in the region where the managed care organization provides health care services;

(17) a requirement that the managed care organization provide special programs and materials for recipients with limited English proficiency or low literacy skills;

(18) a requirement that the managed care organization develop and submit to the commission, before the organization begins to provide health care services to recipients, a comprehensive plan that describes how the organization's provider network will provide recipients sufficient access to:

(A) preventive care;

(B) primary care;

(C) specialty care;

(D) after-hours urgent care; and

(E) chronic care;

(19) a requirement that the managed care organization demonstrate to the commission, before the organization begins to provide health care services to recipients, that:

(A) the organization's provider network has the capacity to serve the number of recipients expected to enroll in a managed care plan offered by the organization;

(B) the organization's provider network includes:

(i) a sufficient number of primary care providers;

(ii) a sufficient variety of provider types; and

(iii) providers located throughout the region where the organization

will provide health care services; and

(C) health care services will be accessible to recipients through the organization's provider network to the same extent that health care services would be available to recipients under a fee-for-service or primary care case management model of Medicaid managed care;

(20) a requirement that the managed care organization develop a monitoring program for measuring the quality of the health care services provided by the organization's provider network that:

(A) incorporates the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set (HEDIS) measures;

(B) focuses on measuring outcomes; and

(C) includes the collection and analysis of clinical data relating to prenatal care, preventive care, mental health care, and the treatment of acute and chronic health conditions and substance abuse;

(21) a requirement that the managed care organization develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients:

(A) that reimburses only enrolled pharmacy providers for pharmacy products on the vendor drug program formulary, also known as the Texas drug code index;

(B) that adheres to the applicable preferred drug list adopted by the commission under Section 531.072;

(C) that includes the prior authorization procedures and requirements prescribed by or implemented under Sections 531.073(b), (c), and (g) for the vendor drug program;

(D) for purposes of which the managed care organization:

(i) may not negotiate or collect rebates associated with pharmacy products on the vendor drug program formulary; and

(ii) may not receive drug rebate or pricing information that is confidential under Section 531.071;

(E) that complies with the prohibition under Section 531.089;

(F) under which the managed care organization may not prohibit, limit, or interfere with a recipient's selection of a pharmacy or pharmacist of the recipient's choice for the provision of pharmaceutical services under the plan through the imposition of different copayments or other conditions;

(G) that establishes uniform administrative, financial, and professional terms for all pharmacies and pharmacists that participate in the plan; and

(H) under which the managed care organization may not prevent a pharmacy or pharmacist from participating as a provider if the pharmacy or pharmacist agrees to comply with the terms established under Paragraph (G); and

(22) a requirement that the managed care organization and any entity with which the managed care organization contracts for the performance of services under a managed care plan disclose, at no cost, to the commission and, on request, the office of the attorney general all discounts, incentives, rebates, fees, free goods, bundling arrangements, and other agreements affecting the net cost of goods or services provided under the plan.

(e) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0066 to read as follows:

Sec. 533.0066. PROVIDER INCENTIVES. The commission shall, to the extent possible, work to ensure that managed care organizations provide payment incentives to health care providers in the organizations' networks whose performance in promoting recipients' use of preventive services exceeds minimum established standards.

(f) Section 533.0071, Government Code, is amended to read as follows:

Sec. 533.0071. ADMINISTRATION OF CONTRACTS. The commission shall make every effort to improve the administration of contracts with managed care organizations. To improve the administration of these contracts, the commission shall:

(1) ensure that the commission has appropriate expertise and qualified staff to effectively manage contracts with managed care organizations under the Medicaid managed care program;

(2) evaluate options for Medicaid payment recovery from managed care organizations if the enrollee dies or is incarcerated or if an enrollee is enrolled in more than one state program or is covered by another liable third party insurer;

(3) maximize Medicaid payment recovery options by contracting with private vendors to assist in the recovery of capitation payments, payments from other liable third parties, and other payments made to managed care organizations with respect to enrollees who leave the managed care program;

(4) decrease the administrative burdens of managed care for the state, the managed care organizations, and the providers under managed care networks to the extent that those changes are compatible with state law and existing Medicaid managed care contracts, including decreasing those burdens by:

(A) where possible, decreasing the duplication of administrative reporting requirements for the managed care organizations, such as requirements for the submission of encounter data, quality reports, historically underutilized business reports, and claims payment summary reports;

(B) allowing managed care organizations to provide updated address information directly to the commission for correction in the state system;

(C) promoting consistency and uniformity among managed care organization policies, including policies relating to the preauthorization process, lengths of hospital stays, filing deadlines, levels of care, and case management services; ~~and~~

(D) reviewing the appropriateness of primary care case management requirements in the admission and clinical criteria process, such as requirements relating to including a separate cover sheet for all communications, submitting handwritten communications instead of electronic or typed review processes, and admitting patients listed on separate notifications; and

(E) providing a single portal through which providers in any managed care organization's provider network may submit claims; and

(5) reserve the right to amend the managed care organization's process for resolving provider appeals of denials based on medical necessity to include an independent review process established by the commission for final determination of these disputes.

(g) Sections 533.0076(a) and (c), Government Code, are amended to read as follows:

(a) Except as provided by Subsections (b) and (c), and to the extent permitted by federal law, ~~[the commission may prohibit]~~ a recipient enrolled ~~[from disenrolling]~~ in a managed care plan under this chapter may not disenroll from that plan and enroll ~~[enrolling]~~ in another managed care plan [during the 12 month period after the date the recipient initially enrolls in a plan].

(c) The commission shall allow a recipient who is enrolled in a managed care plan under this chapter to disenroll from ~~[in]~~ that plan:

- (1) at any time for cause in accordance with federal law; and
- (2) once for any reason after the period described by Subsection (b).

(h) Sections 533.012(a), (b), (c), and (e), Government Code, are amended to read as follows:

(a) Each managed care organization contracting with the commission under this chapter shall submit the following, at no cost, to the commission and, on request, the office of the attorney general:

- (1) a description of any financial or other business relationship between the organization and any subcontractor providing health care services under the contract;
- (2) a copy of each type of contract between the organization and a subcontractor relating to the delivery of or payment for health care services;
- (3) a description of the fraud control program used by any subcontractor that delivers health care services; and
- (4) a description and breakdown of all funds paid to or by the managed care organization, including a health maintenance organization, primary care case management provider, pharmacy benefit manager, and ~~[an]~~ exclusive provider organization, necessary for the commission to determine the actual cost of administering the managed care plan.

(b) The information submitted under this section must be submitted in the form required by the commission or the office of the attorney general, as applicable, and be updated as required by the commission or the office of the attorney general, as applicable.

(c) The commission's office of investigations and enforcement or the office of the attorney general, as applicable, shall review the information submitted under this section as appropriate in the investigation of fraud in the Medicaid managed care program.

(e) Information submitted to the commission or the office of the attorney general, as applicable, under Subsection (a)(1) is confidential and not subject to disclosure under Chapter 552, Government Code.

(i) The heading to Section 32.046, Human Resources Code, is amended to read as follows:

Sec. 32.046. ~~[VENDOR DRUG PROGRAM;]~~ SANCTIONS AND PENALTIES RELATED TO THE PROVISION OF PHARMACY PRODUCTS.

(j) Section 32.046(a), Human Resources Code, is amended to read as follows:

(a) The executive commissioner of the Health and Human Services Commission ~~[department]~~ shall adopt rules governing sanctions and penalties that apply to a provider who participates in the vendor drug program or is enrolled as a network

pharmacy provider of a managed care organization contracting with the commission under Chapter 533, Government Code, or its subcontractor and who submits an improper claim for reimbursement under the program.

(k) Not later than December 1, 2013, the Health and Human Services Commission shall submit a report to the legislature regarding the commission's work to ensure that Medicaid managed care organizations promote the development of patient-centered medical homes for recipients of medical assistance as required under Section 533.0029, Government Code, as added by this section.

(l) The Health and Human Services Commission shall, in a contract between the commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act, include the provisions required by Section 533.005(a), Government Code, as amended by this section.

(m) Sections 533.0076(a) and (c), Government Code, as amended by this section, apply only to a request for disenrollment from a Medicaid managed care plan under Chapter 533, Government Code, made by a recipient on or after the effective date of this Act. A request made by a recipient before that date is governed by the law in effect on the date the request was made, and the former law is continued in effect for that purpose.

SECTION 4. ABOLISHING STATE KIDS INSURANCE PROGRAM.

(a) Section 62.101, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A child who is the dependent of an employee of an agency of this state and who meets the requirements of Subsection (a) may be eligible for health benefits coverage in accordance with 42 U.S.C. Section 1397jj(b)(6) and any other applicable law or regulations.

(b) Sections 1551.159 and 1551.312, Insurance Code, are repealed.

(c) The State Kids Insurance Program operated by the Employees Retirement System of Texas is abolished on the effective date of this Act. The Health and Human Services Commission shall:

(1) establish a process in cooperation with the Employees Retirement System of Texas to facilitate the enrollment of eligible children in the child health plan program established under Chapter 62, Health and Safety Code, on or before the date those children are scheduled to stop receiving dependent child coverage under the State Kids Insurance Program; and

(2) modify any applicable administrative procedures to ensure that children described by this subsection maintain continuous health benefits coverage while transitioning from enrollment in the State Kids Insurance Program to enrollment in the child health plan program.

SECTION 5. PREVENTION OF CRIMINAL OR FRAUDULENT CONDUCT BY CERTAIN FACILITIES, PROVIDERS, AND RECIPIENTS. (a) Subchapter B, Chapter 31, Human Resources Code, is amended by adding Section 31.0326 to read as follows:

Sec. 31.0326. VERIFICATION OF IDENTITY AND PREVENTION OF DUPLICATE PARTICIPATION. The Health and Human Services Commission shall use appropriate technology to:

(1) confirm the identity of applicants for benefits under the financial assistance program; and

(2) prevent duplicate participation in the program by a person.

(b) Chapter 33, Human Resources Code, is amended by adding Section 33.0231 to read as follows:

Sec. 33.0231. VERIFICATION OF IDENTITY AND PREVENTION OF DUPLICATE PARTICIPATION IN SNAP. The department shall use appropriate technology to:

(1) confirm the identity of applicants for benefits under the supplemental nutrition assistance program; and

(2) prevent duplicate participation in the program by a person.

(c) Section 531.109, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Absent an allegation of fraud, waste, or abuse, the commission may conduct an annual review of claims under this section only after the commission has completed the prior year's annual review of claims.

(d) Section 31.0325, Human Resources Code, is repealed.

SECTION 6. PROVISIONS RELATING TO CONVALESCENT AND NURSING HOMES. (a) Section 242.033, Health and Safety Code, is amended by amending Subsection (d) and adding Subsection (g) to read as follows:

(d) Except as provided by Subsection (f), a license is renewable every three [~~two~~] years after:

(1) an inspection, unless an inspection is not required as provided by Section 242.047;

(2) payment of the license fee; and

(3) department approval of the report filed every three [~~two~~] years by the licensee.

(g) The executive commissioner by rule shall adopt a system under which an appropriate number of licenses issued by the department under this chapter expire on staggered dates occurring in each three-year period. If the expiration date of a license changes as a result of this subsection, the department shall prorate the licensing fee relating to that license as appropriate.

(b) Section 242.159(e-1), Health and Safety Code, is amended to read as follows:

(e-1) An institution is not required to comply with Subsections (a) and (e) until September 1, 2014 [~~2012~~]. This subsection expires January 1, 2015 [~~2013~~].

(c) The executive commissioner of the Health and Human Services Commission shall adopt the rules required under Section 242.033(g), Health and Safety Code, as added by this section, as soon as practicable after the effective date of this Act, but not later than December 1, 2012.

SECTION 7. STREAMLINING OF AND UTILIZATION MANAGEMENT IN MEDICAID LONG-TERM CARE WAIVER PROGRAMS. (a) Section 161.077, Human Resources Code, as added by Chapter 759 (S.B. 705), Acts of the 81st Legislature, Regular Session, 2009, is redesignated as Section 161.081, Human Resources Code, and amended to read as follows:

Sec. 161.081 [~~161.077~~]. LONG-TERM CARE MEDICAID WAIVER PROGRAMS: STREAMLINING AND UNIFORMITY. (a) In this section, "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) The department, in consultation with the commission, shall streamline the administration of and delivery of services through Section 1915(c) waiver programs. In implementing this subsection, the department, subject to Subsection (c), may consider implementing the following streamlining initiatives:

(1) reducing the number of forms used in administering the programs;
(2) revising program provider manuals and training curricula;
(3) consolidating service authorization systems;
(4) eliminating any physician signature requirements the department considers unnecessary;

(5) standardizing individual service plan processes across the programs;
~~and~~

(6) if feasible:
(A) concurrently conducting program certification and billing audit and review processes and other related audit and review processes;

(B) streamlining other billing and auditing requirements;
(C) eliminating duplicative responsibilities with respect to the coordination and oversight of individual care plans for persons receiving waiver services; and

(D) streamlining cost reports and other cost reporting processes; and
(7) any other initiatives that will increase efficiencies in the programs.

(c) The department shall ensure that actions taken under Subsection (b) [~~this section~~] do not conflict with any requirements of the commission under Section 531.0218, Government Code.

(d) The department and the commission shall jointly explore the development of uniform licensing and contracting standards that would:

(1) apply to all contracts for the delivery of Section 1915(c) waiver program services;

(2) promote competition among providers of those program services; and
(3) integrate with other department and commission efforts to streamline and unify the administration and delivery of the program services, including those required by this section or Section 531.0218, Government Code.

(b) Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.082 to read as follows:

Sec. 161.082. LONG-TERM CARE MEDICAID WAIVER PROGRAMS: UTILIZATION REVIEW. (a) In this section, "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) The department shall perform a utilization review of services in all Section 1915(c) waiver programs. The utilization review must include reviewing program recipients' levels of care and any plans of care for those recipients that exceed service level thresholds established in the applicable waiver program guidelines.

SECTION 8. PROVISIONS RELATING TO ASSISTED LIVING FACILITIES. (a) Section 247.004, Health and Safety Code, is amended to read as follows:

Sec. 247.004. EXEMPTIONS. This chapter does not apply to:

(1) a boarding home facility as defined by Section 254.001, as added by Chapter 1106 (H.B. 216), Acts of the 81st Legislature, Regular Session, 2009;

(2) an establishment conducted by or for the adherents of the Church of Christ, Scientist, for the purpose of providing facilities for the care or treatment of the sick who depend exclusively on prayer or spiritual means for healing without the use of any drug or material remedy if the establishment complies with local safety, sanitary, and quarantine ordinances and regulations;

(3) a facility conducted by or for the adherents of a qualified religious society classified as a tax-exempt organization under an Internal Revenue Service group exemption ruling for the purpose of providing personal care services without charge solely for the society's professed members or ministers in retirement, if the facility complies with local safety, sanitation, and quarantine ordinances and regulations; or

(4) a facility that provides personal care services only to persons enrolled in a program that:

(A) is funded in whole or in part by the department and that is monitored by the department or its designated local mental retardation authority in accordance with standards set by the department; or

(B) is funded in whole or in part by the Department of State Health Services and that is monitored by that department, or by its designated local mental health authority in accordance with standards set by the department.

(b) Section 247.027(a), Health and Safety Code, is amended to read as follows:

(a) In addition to the inspection required under Section 247.023(a), the department may inspect an assisted living facility once during an 18-month period [~~annually~~] and may inspect a facility at other reasonable times as necessary to assure compliance with this chapter.

(c) Section 247.032(b), Health and Safety Code, is amended to read as follows:

(b) The department shall accept an accreditation survey from an accreditation commission for an assisted living facility instead of an inspection under Section 247.023 or an [~~annual~~] inspection or survey conducted once during each 18-month period under the authority of Section 247.027, but only if:

(1) the accreditation commission's standards meet or exceed the requirements for licensing of the executive commissioner of the Health and Human Services Commission for an assisted living facility;

(2) the accreditation commission maintains an inspection or survey program that, for each assisted living facility, meets the department's applicable minimum standards as confirmed by the executive commissioner of the Health and Human Services Commission;

(3) the accreditation commission conducts an on-site inspection or survey of the facility at least as often as required by Section 247.023 or 247.027 and in accordance with the department's minimum standards;

(4) the assisted living facility submits to the department a copy of its required accreditation reports to the accreditation commission in addition to the application, the fee, and any report required for renewal of a license;

(5) the inspection or survey results are available for public inspection to the same extent that the results of an investigation or survey conducted under Section 247.023 or 247.027 are available for public inspection; and

(6) the department ensures that the accreditation commission has taken reasonable precautions to protect the confidentiality of personally identifiable information concerning the residents of the assisted living facility.

SECTION 9. TELEMONITORING. (a) Section 531.001, Government Code, is amended by adding Subdivision (7) to read as follows:

(7) "Telemonitoring" means the use of telecommunications and information technology to provide access to health assessment, intervention, consultation, supervision, and information across distance. Telemonitoring includes the use of technologies such as telephones, facsimile machines, e-mail systems, text messaging systems, and remote patient monitoring devices to collect and transmit patient data for monitoring and interpretation.

(b) Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.02176, 531.02177, and 531.02178 to read as follows:

Sec. 531.02176. MEDICAID TELEMONITORING PILOT PROGRAMS FOR DIABETES. (a) The commission shall determine whether the Medicaid Enhanced Care program's diabetes self-management training telemonitoring pilot program was cost neutral.

(b) In determining whether the pilot program described by Subsection (a) was cost neutral, the commission shall, at a minimum, compare:

(1) the health care costs of program participants who received telemonitoring services with the health care costs of a group of Medicaid recipients who did not receive telemonitoring services;

(2) the health care services used by program participants who received telemonitoring services with the health care services used by a group of Medicaid recipients who did not receive telemonitoring services;

(3) for program participants who received telemonitoring services, the amount spent on health care services before, during, and after the receipt of telemonitoring services; and

(4) for program participants who received telemonitoring services, the health care services used before, during, and after the receipt of telemonitoring services.

(c) If the commission determines that the pilot program described by Subsection (a) was cost neutral, the executive commissioner shall adopt rules for providing telemonitoring services through the Medicaid Texas Health Management Program for select diabetes patients in a manner comparable to that program.

(d) If the commission determines that the pilot program described by Subsection (a) was not cost neutral, the commission shall develop and implement within the Medicaid Texas Health Management Program for select diabetes patients a new

diabetes telemonitoring pilot program based on evidence-based best practices, provided that the commission determines implementing the new diabetes telemonitoring pilot program would be cost neutral.

(e) In determining whether implementing a new diabetes telemonitoring pilot program under Subsection (d) would be cost neutral, the commission shall consider appropriate factors, including the following:

(1) the target population, participant eligibility criteria, and the number of participants to whom telemonitoring services would be provided;

(2) the type of telemonitoring technology to be used;

(3) the estimated cost of the telemonitoring services to be provided;

(4) the estimated cost differential to the state based on changes in participants' use of emergency department services, outpatient services, pharmaceutical and ancillary services, and inpatient services other than inpatient labor and delivery services; and

(5) other indirect costs that may result from the provision of telemonitoring services.

Sec. 531.02177. MEDICAID TELEMONITORING PILOT PROGRAM FOR CERTAIN CONDITIONS. (a) The commission shall develop and implement a pilot program within the Medicaid Texas Health Management Program to evaluate the cost neutrality of providing telemonitoring services to persons who are diagnosed with health conditions other than diabetes, if the commission determines implementing the pilot program would be cost neutral.

(b) In determining whether implementing a pilot program under Subsection (a) would be cost neutral, the commission shall consider appropriate factors, including the following:

(1) the types of health conditions that could be assessed through the program by reviewing existing research and other evidence on the effectiveness of providing telemonitoring services to persons with those conditions;

(2) the target population, participant eligibility criteria, and the number of participants to whom telemonitoring services would be provided;

(3) the type of telemonitoring technology to be used;

(4) the estimated cost of the telemonitoring services to be provided;

(5) the estimated cost differential to the state based on changes in participants' use of emergency department services, outpatient services, pharmaceutical and ancillary services, and inpatient services other than inpatient labor and delivery services; and

(6) other indirect costs that may result from the provision of telemonitoring services.

Sec. 531.02178. DISSEMINATION OF INFORMATION ABOUT EFFECTIVE TELEMONITORING STRATEGIES. The commission shall annually:

(1) identify telemonitoring strategies implemented within the Medicaid program that have demonstrated cost neutrality or resulted in improved performance on key health measures; and

(2) disseminate information about the identified strategies to encourage the adoption of effective telemonitoring strategies.

(c) Not later than January 1, 2012, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Section 531.02176(c), Government Code, as added by this section, if the commission determines that the Medicaid Enhanced Care program's diabetes self-management training telemonitoring pilot program was cost neutral.

(d) Not later than September 1, 2012, the Health and Human Services Commission shall determine whether implementing a new diabetes telemonitoring pilot program would be cost neutral if required by Section 531.02176(d), Government Code, as added by this section, and report that determination to the governor and the Legislative Budget Board.

(e) Not later than September 1, 2012, the Health and Human Services Commission shall determine whether implementing a telemonitoring pilot program for health conditions other than diabetes would be cost neutral as required by Section 531.02177(a), Government Code, as added by this section, and report that determination to the governor and the Legislative Budget Board.

SECTION 10. PHYSICIAN INCENTIVE PROGRAMS. Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.086 and 531.0861 to read as follows:

Sec. 531.086. STUDY REGARDING PHYSICIAN INCENTIVE PROGRAMS TO REDUCE HOSPITAL EMERGENCY ROOM USE FOR NON-EMERGENT CONDITIONS. (a) The commission shall conduct a study to evaluate physician incentive programs that attempt to reduce hospital emergency room use for non-emergent conditions by recipients under the medical assistance program. Each physician incentive program evaluated in the study must:

(1) be administered by a health maintenance organization participating in the STAR or STAR + PLUS Medicaid managed care program; and

(2) provide incentives to primary care providers who attempt to reduce emergency room use for non-emergent conditions by recipients.

(b) The study conducted under Subsection (a) must evaluate:

(1) the cost-effectiveness of each component included in a physician incentive program; and

(2) any change in statute required to implement each component within the Medicaid fee-for-service or primary care case management model.

(c) Not later than August 31, 2012, the executive commissioner shall submit to the governor and the Legislative Budget Board a report summarizing the findings of the study required by this section.

(d) This section expires September 1, 2013.

Sec. 531.0861. PHYSICIAN INCENTIVE PROGRAM TO REDUCE HOSPITAL EMERGENCY ROOM USE FOR NON-EMERGENT CONDITIONS.

(a) The executive commissioner by rule shall establish a physician incentive program designed to reduce the use of hospital emergency room services for non-emergent conditions by recipients under the medical assistance program.

(b) In establishing the physician incentive program under Subsection (a), the executive commissioner may include only the program components identified as cost-effective in the study conducted under Section 531.086.

(c) If the physician incentive program includes the payment of an enhanced reimbursement rate for routine after-hours appointments, the executive commissioner shall implement controls to ensure that the after-hours services billed are actually being provided outside of normal business hours.

SECTION 11. BILLING COORDINATION AND INFORMATION COLLECTION. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.024131 to read as follows:

Sec. 531.024131. EXPANSION OF BILLING COORDINATION AND INFORMATION COLLECTION ACTIVITIES. (a) If cost-effective, the commission may:

(1) contract to expand all or part of the billing coordination system established under Section 531.02413 to process claims for services provided through other benefits programs administered by the commission or a health and human services agency;

(2) expand any other billing coordination tools and resources used to process claims for health care services provided through the Medicaid program to process claims for services provided through other benefits programs administered by the commission or a health and human services agency; and

(3) expand the scope of persons about whom information is collected under Section 32.042, Human Resources Code, to include recipients of services provided through other benefits programs administered by the commission or a health and human services agency.

(b) Notwithstanding any other state law, each health and human services agency shall provide the commission with any information necessary to allow the commission or the commission's designee to perform the billing coordination and information collection activities authorized by this section.

SECTION 12. TEXAS HEALTH OPPORTUNITY POOL TRUST FUND. (a) Sections 531.502(b) and (d), Government Code, are amended to read as follows:

(b) The executive commissioner may include the following federal money in the waiver:

(1) ~~all~~ money provided under the disproportionate share hospitals or ~~and~~ upper payment limit supplemental payment program, or both ~~programs~~;

(2) money provided by the federal government in lieu of some or all of the payments under one or both of those programs;

(3) any combination of funds authorized to be pooled by Subdivisions (1) and (2); and

(4) any other money available for that purpose, including:

(A) federal money and money identified under Subsection (c);

(B) gifts, grants, or donations for that purpose;

(C) local funds received by this state through intergovernmental transfers; and

(D) if approved in the waiver, federal money obtained through the use of certified public expenditures.

(d) The terms of a waiver approved under this section must:

(1) include safeguards to ensure that the total amount of federal money provided under the disproportionate share hospitals or ~~and~~ upper payment limit supplemental payment program ~~[programs]~~ that is deposited as provided by Section 531.504 is, for a particular state fiscal year, at least equal to the greater of the annualized amount provided to this state under those supplemental payment programs during state fiscal year 2007, excluding amounts provided during that state fiscal year that are retroactive payments, or the state fiscal years during which the waiver is in effect; and

(2) allow for the development by this state of a methodology for allocating money in the fund to:

(A) offset, in part, the uncompensated health care costs incurred by hospitals;

(B) reduce the number of persons in this state who do not have health benefits coverage; and

(C) maintain and enhance the community public health infrastructure provided by hospitals.

(b) Section 531.504, Government Code, is amended to read as follows:

Sec. 531.504. DEPOSITS TO FUND. (a) The comptroller shall deposit in the fund:

(1) ~~all~~ federal money provided to this state under the disproportionate share hospitals supplemental payment program or ~~and~~ the hospital upper payment limit supplemental payment program, or both, other than money provided under those programs to state-owned and operated hospitals, and all other non-supplemental payment program federal money provided to this state that is included in the waiver authorized by Section 531.502; and

(2) state money appropriated to the fund.

(b) The commission and comptroller may accept gifts, grants, and donations from any source, and receive intergovernmental transfers, for purposes consistent with this subchapter and the terms of the waiver. The comptroller shall deposit a gift, grant, or donation made for those purposes in the fund.

(c) Section 531.508, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Money from the fund may not be used to finance the construction, improvement, or renovation of a building or land unless the construction, improvement, or renovation is approved by the commission, according to rules adopted by the executive commissioner for that purpose.

(d) Section 531.502(g), Government Code, is repealed.

SECTION 13. REPORT ON MEDICAID LONG-TERM CARE SERVICES.

(a) In this section:

(1) "Long-term care services" has the meaning assigned by Section 22.0011, Human Resources Code.

(2) "Medical assistance program" means the medical assistance program administered under Chapter 32, Human Resources Code.

(3) "Nursing facility" means a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code.

(b) The Health and Human Services Commission, in cooperation with the Department of Aging and Disability Services, shall prepare a written report regarding individuals who receive long-term care services in nursing facilities under the medical assistance program. The report must be based on existing data and information, and must use that data and information to identify:

(1) the reasons medical assistance recipients of long-term care services are placed in nursing facilities as opposed to being provided long-term care services in home or community-based settings;

(2) the types of medical assistance services recipients residing in nursing facilities typically receive and where and from whom those services are typically provided;

(3) the community-based services and supports available under a Medicaid state plan program, including the primary home care and community attendant services programs, or under a medical assistance waiver granted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)) for which recipients residing in nursing facilities may be eligible; and

(4) ways to expedite recipients' access to community-based services and supports identified under Subdivision (3) of this subsection for which interest lists or other waiting lists exist.

(c) Not later than September 1, 2012, the Health and Human Services Commission shall submit the report described by Subsection (b) of this section, together with the commission's recommendations, to the governor, the Legislative Budget Board, the Senate Committee on Finance, the Senate Committee on Health and Human Services, the House Appropriations Committee, and the House Human Services Committee. The recommendations must address options for expediting access to community-based services and supports by recipients described by Subsection (b)(3) of this section.

SECTION 14. FEDERAL AUTHORIZATION. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 15. EFFECTIVE DATE. This Act takes effect September 1, 2011.

Floor Amendment No. 1

Amend **CSSB 23** on page 16, lines 14 through 25 by striking existing subsections (F), (G), and (H) and inserting the following and renumbering the remaining sections appropriately:

"(F) under which the managed care organization may not prohibit, limit, or interfere with a recipient's selection of a pharmacy or pharmacist of the recipient's choice for the provision of pharmaceutical services under the plan through the imposition of different copayments;

(G) may allow the managed care organization or any sub-contracted pharmacy benefit manager to contract with a pharmacist or pharmacy providers separately for specialty pharmacy services, except that:

(i) the managed care organization and pharmacy benefit manager is prohibited from allowing exclusive contracts with a specialty pharmacy owned wholly or in part by the pharmacy benefit manager responsible for the administration of the pharmacy benefit program; and

(ii) the managed care organization and pharmacy benefit manager adopts policies and procedures for reclassifying prescription drugs from retail to specialty that are consistent with rules adopted by the executive commissioner and include notice to network pharmacy providers from the managed care organization;

(H) under which the managed care organization may not prevent a pharmacy or pharmacist from participating as a provider if the pharmacy or pharmacist agrees to comply with the financial terms and conditions of the contract as well as other reasonable administrative and professional terms and conditions of the contract;

(I) under which the managed care organization may include mail-order pharmacies in their networks, but must not require enrolled recipients to use them and enrolled recipients who opt to use this service may not be charged fees, including postage and handling fees; and

(J) under which the managed care organization or pharmacy benefit manager must pay claims in accordance with Section 843.339, Insurance Code. "

Amend **CSSB 23** on page 10 line 19 by inserting "either" after the word "that" and before the ":".

Amend **CSSB 23** on page 10 lines 22 to 25 by striking existing subsection (B) and inserting the following new subsection (B) as follows:

"(B) is in compliance with the requirements of Section 533.004."

Amend **CSSB 23** on page 13 line 27 by striking the word "in" and replacing it with the word "to".

Amend **CSSB 23** on page 15 line 5 strike "the same" and substitute "a comparable" after the word "to".

Amend **CSSB 23** on page 26 insert the appropriately numbered new subsection to Section 533.005 Government Code as amended.

"() Section (21)(A)(B) and (C) are repealed on August 31, 2013."

Amend **CSSB 23** by adding the following appropriately numbered new sections:

"SECTION ____ . Section 247.002(1), Health and Safety Code, is amended to read as follows:

(1) "Assisted living facility" means an establishment that:

(A) furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment;

(B) provides:

(i) personal care services; or

(ii) administration of medication by a person licensed or otherwise authorized in this state to administer the medication; [and]

(C) may provide assistance with or supervision of the administration of medication; [~~and~~]

(D) may provide skilled nursing services for a limited duration or to facilitate the provision of hospice services.

SECTION _____. Section 247.067(b), Health and Safety Code, is amended to read as follows:

(b) Unless otherwise prohibited by law, a [A] health care professional may be employed by an assisted living facility to provide at the facility to the facility's residents services that are authorized by this chapter and within the professional's scope of practice [to a resident of an assisted living facility at the facility]. This subsection does not authorize a facility to provide ongoing services comparable to the services available in an institution licensed under Chapter 242. A health care professional providing services under this subsection shall maintain medical records of those services in accordance with the licensing, certification, or other regulatory standards applicable to the health care professional under law."

Amend **CSSB 23** on page 6 line 4 through 7 by striking (B) and replacing it with the following new (B):

"(B) an assessment of whether the recipient should be referred for additional assessments regarding the recipient's needs for attendant care services and durable medical equipment; and"

Amend **CSSB 23** by striking on page 6 lines 20 through page 7 line 11.

Floor Amendment No. 2

Amend **CSSB 23** (house committee printing) as follows:

(1) In SECTION 10 of the bill, immediately following the heading to the section (page 34, line 18), between "PROGRAMS." and "Subchapter", insert "(a)".

(2) In SECTION 10 of the bill, in added Section 531.086(b)(2), Government Code (page 35, lines 11 and 12), strike "or primary care case management" and substitute "payment".

(3) In SECTION 10 of the bill, in added Section 531.086(c), Government Code (page 35, line 13), strike "August 31, 2012" and substitute "August 31, 2013".

(4) In SECTION 10 of the bill, in added Section 531.086(d), Government Code (page 35, line 17), strike "September 1, 2013" and substitute "September 1, 2014".

(5) In SECTION 10 of the bill, in added Section 531.0861(a), Government Code (page 35, line 19), strike "The" and substitute "If cost-effective, the".

(6) At the end of SECTION 10 of the bill (page 36, between lines 5 and 6), insert the following:

(b) Section 32.0641, Human Resources Code, is amended to read as follows:

Sec. 32.0641. RECIPIENT ACCOUNTABILITY PROVISIONS; COST-SHARING REQUIREMENT TO IMPROVE APPROPRIATE UTILIZATION OF [COST SHARING FOR CERTAIN HIGH COST MEDICAL] SERVICES.

(a) To [If the department determines that it is feasible and cost-effective, and to] the extent permitted under and in a manner that is consistent with Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.) and any other applicable law or regulation, including Sections 1916 and 1916A, Social Security Act (42 U.S.C. Sections 1396o and 1396o-1), or under a federal waiver or other authorization, the executive commissioner of the Health and Human Services Commission shall adopt, after consulting with the Medicaid and CHIP Quality-Based Payment Advisory Committee established under Section 536.002, Government Code, cost-sharing provisions that encourage personal accountability and appropriate utilization of health care services, including a cost-sharing provision applicable to [require] a recipient

who chooses to receive a nonemergency ~~[a high-cost]~~ medical service ~~[provided]~~ through a hospital emergency room ~~[to pay a copayment, premium payment, or other cost-sharing payment for the high-cost medical service]~~ if:

(1) the hospital from which the recipient seeks service:

(A) performs an appropriate medical screening and determines that the recipient does not have a condition requiring emergency medical services;

(B) informs the recipient:

(i) that the recipient does not have a condition requiring emergency medical services;

(ii) that, if the hospital provides the nonemergency service, the hospital may require payment of a copayment, premium payment, or other cost-sharing payment by the recipient in advance; and

(iii) of the name and address of a nonemergency Medicaid provider who can provide the appropriate medical service without imposing a cost-sharing payment; and

(C) offers to provide the recipient with a referral to the nonemergency provider to facilitate scheduling of the service; and

(2) after receiving the information and assistance described by Subdivision (1) from the hospital, the recipient chooses to obtain ~~[emergency]~~ medical services through the hospital emergency room despite having access to medically acceptable, appropriate ~~[lower-cost]~~ medical services.

(b) The department may not seek a federal waiver or other authorization under ~~this section [Subsection (a)]~~ that would:

(1) prevent a Medicaid recipient who has a condition requiring emergency medical services from receiving care through a hospital emergency room; or

(2) waive any provision under Section 1867, Social Security Act (42 U.S.C. Section 1395dd).

(c) ~~The [If the] executive commissioner of the Health and Human Services Commission shall adopt [adopts a copayment or other] cost-sharing provisions [payment] under Subsection (a), other than provisions applicable to recipients who choose to receive nonemergency medical services through a hospital emergency room, in a manner that is consistent with Section 1916 or 1916A, Social Security Act (42 U.S.C. Section 1396o or 1396o-1) [the commission may not reduce hospital payments to reflect the potential receipt of a copayment or other payment from a recipient receiving medical services provided through a hospital emergency room].~~

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

SECTION ____ . QUALITY-BASED OUTCOME AND PAYMENT INITIATIVES. (a) Subtitle I, Title 4, Government Code, is amended by adding Chapter 536, and Section 531.913, Government Code, is transferred to Subchapter D, Chapter 536, Government Code, redesignated as Section 536.151, Government Code, and amended to read as follows:

CHAPTER 536. MEDICAID AND CHILD HEALTH PLAN PROGRAMS:

QUALITY-BASED OUTCOMES AND PAYMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 536.001. DEFINITIONS. In this chapter:

(1) "Advisory committee" means the Medicaid and CHIP Quality-Based Payment Advisory Committee established under Section 536.002.

(2) "Alternative payment system" includes:

(A) a global payment system;

(B) an episode-based bundled payment system; and

(C) a blended payment system.

(3) "Blended payment system" means a system for compensating a physician or other health care provider that includes at least one or more features of a global payment system and an episode-based bundled payment system, but that may also include a system under which a portion of the compensation paid to a physician or other health care provider is based on a fee-for-service payment arrangement.

(4) "Child health plan program," "commission," "executive commissioner," and "health and human services agencies" have the meanings assigned by Section 531.001.

(5) "Episode-based bundled payment system" means a system for compensating a physician or other health care provider for arranging for or providing health care services to child health plan program enrollees or Medicaid recipients that is based on a flat payment for all services provided in connection with a single episode of medical care.

(6) "Exclusive provider benefit plan" means a managed care plan subject to 28 T.A.C. Part 1, Chapter 3, Subchapter KK.

(7) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

(8) "Global payment system" means a system for compensating a physician or other health care provider for arranging for or providing a defined set of covered health care services to child health plan program enrollees or Medicaid recipients for a specified period that is based on a predetermined payment per enrollee or recipient, as applicable, for the specified period, without regard to the quantity of services actually provided.

(9) "Health care provider" means any person, partnership, professional association, corporation, facility, or institution licensed, certified, registered, or chartered by this state to provide health care. The term includes an employee, independent contractor, or agent of a health care provider acting in the course and scope of the employment or contractual relationship.

(10) "Hospital" means a public or private institution licensed under Chapter 241 or 577, Health and Safety Code, including a general or special hospital as defined by Section 241.003, Health and Safety Code.

(11) "Managed care organization" means a person that is authorized or otherwise permitted by law to arrange for or provide a managed care plan. The term includes health maintenance organizations and exclusive provider organizations.

(12) "Managed care plan" means a plan, including an exclusive provider benefit plan, under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services. A part of the plan must consist of arranging for or providing health care services as distinguished from

indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term does not include a plan that indemnifies a person for the cost of health care services through insurance.

(13) "Medicaid program" means the medical assistance program established under Chapter 32, Human Resources Code.

(14) "Physician" means a person licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(15) "Potentially preventable admission" means an admission of a person to a hospital or long-term care facility that may have reasonably been prevented with adequate access to ambulatory care or health care coordination.

(16) "Potentially preventable ancillary service" means a health care service provided or ordered by a physician or other health care provider to supplement or support the evaluation or treatment of a patient, including a diagnostic test, laboratory test, therapy service, or radiology service, that may not be reasonably necessary for the provision of quality health care or treatment.

(17) "Potentially preventable complication" means a harmful event or negative outcome with respect to a person, including an infection or surgical complication, that:

(A) occurs after the person's admission to a hospital or long-term care facility; and

(B) may have resulted from the care, lack of care, or treatment provided during the hospital or long-term care facility stay rather than from a natural progression of an underlying disease.

(18) "Potentially preventable event" means a potentially preventable admission, a potentially preventable ancillary service, a potentially preventable complication, a potentially preventable emergency room visit, a potentially preventable readmission, or a combination of those events.

(19) "Potentially preventable emergency room visit" means treatment of a person in a hospital emergency room or freestanding emergency medical care facility for a condition that may not require emergency medical attention because the condition could be, or could have been, treated or prevented by a physician or other health care provider in a nonemergency setting.

(20) "Potentially preventable readmission" means a return hospitalization of a person within a period specified by the commission that may have resulted from deficiencies in the care or treatment provided to the person during a previous hospital stay or from deficiencies in post-hospital discharge follow-up. The term does not include a hospital readmission necessitated by the occurrence of unrelated events after the discharge. The term includes the readmission of a person to a hospital for:

(A) the same condition or procedure for which the person was previously admitted;

(B) an infection or other complication resulting from care previously provided;

(C) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome; or

(D) another condition or procedure of a similar nature, as determined by the executive commissioner after consulting with the advisory committee.

(21) "Quality-based payment system" means a system for compensating a physician or other health care provider, including an alternative payment system, that provides incentives to the physician or other health care provider for providing high-quality, cost-effective care and bases some portion of the payment made to the physician or other health care provider on quality of care outcomes, which may include the extent to which the physician or other health care provider reduces potentially preventable events.

Sec. 536.002. MEDICAID AND CHIP QUALITY-BASED PAYMENT ADVISORY COMMITTEE. (a) The Medicaid and CHIP Quality-Based Payment Advisory Committee is established to advise the commission on establishing, for purposes of the child health plan and Medicaid programs administered by the commission or a health and human services agency:

(1) reimbursement systems used to compensate physicians or other health care providers under those programs that reward the provision of high-quality, cost-effective health care and quality performance and quality of care outcomes with respect to health care services;

(2) standards and benchmarks for quality performance, quality of care outcomes, efficiency, and accountability by managed care organizations and physicians and other health care providers;

(3) programs and reimbursement policies that encourage high-quality, cost-effective health care delivery models that increase appropriate provider collaboration, promote wellness and prevention, and improve health outcomes; and

(4) outcome and process measures under Section 536.003.

(b) The executive commissioner shall appoint the members of the advisory committee. The committee must consist of physicians and other health care providers, representatives of health care facilities, representatives of managed care organizations, and other stakeholders interested in health care services provided in this state, including:

(1) at least one member who is a physician with clinical practice experience in obstetrics and gynecology;

(2) at least one member who is a physician with clinical practice experience in pediatrics;

(3) at least one member who is a physician with clinical practice experience in internal medicine or family medicine;

(4) at least one member who is a physician with clinical practice experience in geriatric medicine;

(5) at least one member who is or who represents a health care provider that primarily provides long-term care services;

(6) at least one member who is a consumer representative; and

(7) at least one member who is a member of the Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events who meets the qualifications prescribed by Section 98.052(a)(4), Health and Safety Code.

(c) The executive commissioner shall appoint the presiding officer of the advisory committee.

Sec. 536.003. DEVELOPMENT OF QUALITY-BASED OUTCOME AND PROCESS MEASURES. (a) The commission, in consultation with the advisory committee, shall develop quality-based outcome and process measures that promote the provision of efficient, quality health care and that can be used in the child health plan and Medicaid programs to implement quality-based payments for acute and long-term care services across all delivery models and payment systems, including fee-for-service and managed care payment systems. The commission, in developing outcome measures under this section, must consider measures addressing potentially preventable events.

(b) To the extent feasible, the commission shall develop outcome and process measures:

(1) consistently across all child health plan and Medicaid program delivery models and payment systems;

(2) in a manner that takes into account appropriate patient risk factors, including the burden of chronic illness on a patient and the severity of a patient's illness;

(3) that will have the greatest effect on improving quality of care and the efficient use of services; and

(4) that are similar to outcome and process measures used in the private sector, as appropriate.

(c) The commission shall, to the extent feasible, align outcome and process measures developed under this section with measures required or recommended under reporting guidelines established by the federal Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, or another federal agency.

(d) The executive commissioner by rule may require managed care organizations and physicians and other health care providers participating in the child health plan and Medicaid programs to report to the commission in a format specified by the executive commissioner information necessary to develop outcome and process measures under this section.

(e) If the commission increases physician and other health care provider reimbursement rates under the child health plan or Medicaid program as a result of an increase in the amounts appropriated for the programs for a state fiscal biennium as compared to the preceding state fiscal biennium, the commission shall, to the extent permitted under federal law and to the extent otherwise possible considering other relevant factors, correlate the increased reimbursement rates with the quality-based outcome and process measures developed under this section.

Sec. 536.004. DEVELOPMENT OF QUALITY-BASED PAYMENT SYSTEMS. (a) Using quality-based outcome and process measures developed under Section 536.003 and subject to this section, the commission, after consulting with the advisory committee, shall develop quality-based payment systems for compensating a physician or other health care provider participating in the child health plan or Medicaid program that:

(1) align payment incentives with high-quality, cost-effective health care;

(2) reward the use of evidence-based best practices;

(3) promote the coordination of health care;

(4) encourage appropriate physician and other health care provider collaboration;

(5) promote effective health care delivery models; and

(6) take into account the specific needs of the child health plan program enrollee and Medicaid recipient populations.

(b) The commission shall develop quality-based payment systems in the manner specified by this chapter. To the extent necessary, the commission shall coordinate the timeline for the development and implementation of a payment system with the implementation of other initiatives such as the Medicaid Information Technology Architecture (MITA) initiative of the Center for Medicaid and State Operations, the ICD-10 code sets initiative, or the ongoing Enterprise Data Warehouse (EDW) planning process in order to maximize the receipt of federal funds or reduce any administrative burden.

(c) In developing quality-based payment systems under this chapter, the commission shall examine and consider implementing:

(1) an alternative payment system;

(2) any existing performance-based payment system used under the Medicare program that meets the requirements of this chapter, modified as necessary to account for programmatic differences, if implementing the system would:

(A) reduce unnecessary administrative burdens; and

(B) align quality-based payment incentives for physicians and other health care providers with the Medicare program; and

(3) alternative payment methodologies within the system that are used in the Medicare program, modified as necessary to account for programmatic differences, and that will achieve cost savings and improve quality of care in the child health plan and Medicaid programs.

(d) In developing quality-based payment systems under this chapter, the commission shall ensure that a managed care organization or physician or other health care provider will not be rewarded by the system for withholding or delaying the provision of medically necessary care.

(e) The commission may modify a quality-based payment system developed under this chapter to account for programmatic differences between the child health plan and Medicaid programs and delivery systems under those programs.

Sec. 536.005. CONVERSION OF PAYMENT METHODOLOGY. (a) To the extent possible, the commission shall convert hospital reimbursement systems under the child health plan and Medicaid programs to a diagnosis-related groups (DRG) methodology that will allow the commission to more accurately classify specific patient populations and account for severity of patient illness and mortality risk.

(b) Subsection (a) does not authorize the commission to direct a managed care organization to compensate physicians and other health care providers providing services under the organization's managed care plan based on a diagnosis-related groups (DRG) methodology.

Sec. 536.006. TRANSPARENCY. The commission and the advisory committee shall:

(1) ensure transparency in the development and establishment of:

(A) quality-based payment and reimbursement systems under Section 536.004 and Subchapters B, C, and D, including the development of outcome and process measures under Section 536.003; and

(B) quality-based payment initiatives under Subchapter E, including the development of quality of care and cost-efficiency benchmarks under Section 536.204(a) and efficiency performance standards under Section 536.204(b);

(2) develop guidelines establishing procedures for providing notice and information to, and receiving input from, managed care organizations, health care providers, including physicians and experts in the various medical specialty fields, and other stakeholders, as appropriate, for purposes of developing and establishing the quality-based payment and reimbursement systems and initiatives described under Subdivision (1); and

(3) in developing and establishing the quality-based payment and reimbursement systems and initiatives described under Subdivision (1), consider that as the performance of a managed care organization or physician or other health care provider improves with respect to an outcome or process measure, quality of care and cost-efficiency benchmark, or efficiency performance standard, as applicable, there will be a diminishing rate of improved performance over time.

Sec. 536.007. PERIODIC EVALUATION. (a) At least once each two-year period, the commission shall evaluate the outcomes and cost-effectiveness of any quality-based payment system or other payment initiative implemented under this chapter.

(b) The commission shall:

(1) present the results of its evaluation under Subsection (a) to the advisory committee for the committee's input and recommendations; and

(2) provide a process by which managed care organizations and physicians and other health care providers may comment and provide input into the committee's recommendations under Subdivision (1).

Sec. 536.008. ANNUAL REPORT. (a) The commission shall submit an annual report to the legislature regarding:

(1) the quality-based outcome and process measures developed under Section 536.003; and

(2) the progress of the implementation of quality-based payment systems and other payment initiatives implemented under this chapter.

(b) The commission shall report outcome and process measures under Subsection (a)(1) by health care service region and service delivery model.

[Sections 536.009-536.050 reserved for expansion]

SUBCHAPTER B. QUALITY-BASED PAYMENTS RELATING TO MANAGED CARE ORGANIZATIONS

Sec. 536.051. DEVELOPMENT OF QUALITY-BASED PREMIUM PAYMENTS; PERFORMANCE REPORTING. (a) Subject to Section 1903(m)(2)(A), Social Security Act (42 U.S.C. Section 1396b(m)(2)(A)), and other applicable federal law, the commission shall base a percentage of the premiums paid to a managed care organization participating in the child health plan or Medicaid

program on the organization's performance with respect to outcome and process measures developed under Section 536.003, including outcome measures addressing potentially preventable events.

(b) The commission shall make available information relating to the performance of a managed care organization with respect to outcome and process measures under this subchapter to child health plan program enrollees and Medicaid recipients before those enrollees and recipients choose their managed care plans.

Sec. 536.052. PAYMENT AND CONTRACT AWARD INCENTIVES FOR MANAGED CARE ORGANIZATIONS. (a) The commission may allow a managed care organization participating in the child health plan or Medicaid program increased flexibility to implement quality initiatives in a managed care plan offered by the organization, including flexibility with respect to financial arrangements, in order to:

- (1) achieve high-quality, cost-effective health care;
- (2) increase the use of high-quality, cost-effective delivery models; and
- (3) reduce potentially preventable events.

(b) The commission, after consulting with the advisory committee, shall develop quality of care and cost-efficiency benchmarks, including benchmarks based on a managed care organization's performance with respect to reducing potentially preventable events and containing the growth rate of health care costs.

(c) The commission may include in a contract between a managed care organization and the commission financial incentives that are based on the organization's successful implementation of quality initiatives under Subsection (a) or success in achieving quality of care and cost-efficiency benchmarks under Subsection (b).

(d) In awarding contracts to managed care organizations under the child health plan and Medicaid programs, the commission shall, in addition to considerations under Section 533.003 of this code and Section 62.155, Health and Safety Code, give preference to an organization that offers a managed care plan that successfully implements quality initiatives under Subsection (a) as determined by the commission based on data or other evidence provided by the organization or meets quality of care and cost-efficiency benchmarks under Subsection (b).

(e) The commission may implement financial incentives under this section only if implementing the incentives would be cost-effective.

[Sections 536.053-536.100 reserved for expansion]

SUBCHAPTER C. QUALITY-BASED HEALTH HOME PAYMENT SYSTEMS

Sec. 536.101. DEFINITIONS. In this subchapter:

(1) "Health home" means a primary care provider practice or, if appropriate, a specialty care provider practice, incorporating several features, including comprehensive care coordination, family-centered care, and data management, that are focused on improving outcome-based quality of care and increasing patient and provider satisfaction under the child health plan and Medicaid programs.

(2) "Participating enrollee" means a child health plan program enrollee or Medicaid recipient who has a health home.

Sec. 536.102. QUALITY-BASED HEALTH HOME PAYMENTS. (a) Subject to this subchapter, the commission, after consulting with the advisory committee, may develop and implement quality-based payment systems for health homes designed to improve quality of care and reduce the provision of unnecessary medical services. A quality-based payment system developed under this section must:

(1) base payments made to a participating enrollee's health home on quality and efficiency measures that may include measurable wellness and prevention criteria and use of evidence-based best practices, sharing a portion of any realized cost savings achieved by the health home, and ensuring quality of care outcomes, including a reduction in potentially preventable events; and

(2) allow for the examination of measurable wellness and prevention criteria, use of evidence-based best practices, and quality of care outcomes based on the type of primary or specialty care provider practice.

(b) The commission may develop a quality-based payment system for health homes under this subchapter only if implementing the system would be feasible and cost-effective.

Sec. 536.103. PROVIDER ELIGIBILITY. To be eligible to receive reimbursement under a quality-based payment system under this subchapter, a health home provider must:

(1) provide participating enrollees, directly or indirectly, with access to health care services outside of regular business hours;

(2) educate participating enrollees about the availability of health care services outside of regular business hours; and

(3) provide evidence satisfactory to the commission that the provider meets the requirement of Subdivision (1).

[Sections 536.104-536.150 reserved for expansion]

SUBCHAPTER D. QUALITY-BASED HOSPITAL REIMBURSEMENT SYSTEM

Sec. 536.151 [531.913]. COLLECTION AND REPORTING OF CERTAIN [HOSPITAL HEALTH] INFORMATION [EXCHANGE]. (a) [In this section, "potentially preventable readmission" means a return hospitalization of a person within a period specified by the commission that results from deficiencies in the care or treatment provided to the person during a previous hospital stay or from deficiencies in post hospital discharge follow up. The term does not include a hospital readmission necessitated by the occurrence of unrelated events after the discharge. The term includes the readmission of a person to a hospital for:

[(1) the same condition or procedure for which the person was previously admitted;

[(2) an infection or other complication resulting from care previously provided;

[(3) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome; or

[(4) another condition or procedure of a similar nature, as determined by the executive commissioner.

~~[(b)]~~ The executive commissioner shall adopt rules for identifying potentially preventable readmissions of child health plan program enrollees and Medicaid recipients and potentially preventable complications experienced by child health plan program enrollees and Medicaid recipients. The ~~[and the]~~ commission shall collect ~~[exchange]~~ data from ~~[with]~~ hospitals on present-on-admission indicators for purposes of this section.

(b) ~~[(e)]~~ The commission shall establish a ~~[health information exchange]~~ program to provide a ~~[exchange]~~ confidential report to ~~[information with]~~ each hospital in this state that participates in the child health plan or Medicaid program regarding the hospital's performance with respect to potentially preventable readmissions and potentially preventable complications. To the extent possible, a report provided under this section should include potentially preventable readmissions and potentially preventable complications information across all child health plan and Medicaid program payment systems. A hospital shall distribute the information contained in the report ~~[received from the commission]~~ to physicians and other health care providers providing services at the hospital.

(c) A report provided to a hospital under this section is confidential and is not subject to Chapter 552.

Sec. 536.152. REIMBURSEMENT ADJUSTMENTS. (a) Subject to Subsection (b), using the data collected under Section 536.151 and the diagnosis-related groups (DRG) methodology implemented under Section 536.005, the commission, after consulting with the advisory committee, shall to the extent feasible adjust child health plan and Medicaid reimbursements to hospitals, including payments made under the disproportionate share hospitals and upper payment limit supplemental payment programs, in a manner that may reward or penalize a hospital based on the hospital's performance with respect to exceeding, or failing to achieve, outcome and process measures developed under Section 536.003 that address the rates of potentially preventable readmissions and potentially preventable complications.

(b) The commission must provide the report required under Section 536.151(b) to a hospital at least one year before the commission adjusts child health plan and Medicaid reimbursements to the hospital under this section.

[Sections 536.153-536.200 reserved for expansion]

SUBCHAPTER E. QUALITY-BASED PAYMENT INITIATIVES

Sec. 536.201. DEFINITION. In this subchapter, "payment initiative" means a quality-based payment initiative established under this subchapter.

Sec. 536.202. PAYMENT INITIATIVES; DETERMINATION OF BENEFIT TO STATE. (a) The commission shall, after consulting with the advisory committee, establish payment initiatives to test the effectiveness of quality-based payment systems, alternative payment methodologies, and high-quality, cost-effective health care delivery models that provide incentives to physicians and other health care providers to develop health care interventions for child health plan program enrollees or Medicaid recipients, or both, that will:

- (1) improve the quality of health care provided to the enrollees or recipients;
- (2) reduce potentially preventable events;
- (3) promote prevention and wellness;
- (4) increase the use of evidence-based best practices;

(5) increase appropriate physician and other health care provider collaboration; and

(6) contain costs.

(b) The commission shall:

(1) establish a process by which managed care organizations and physicians and other health care providers may submit proposals for payment initiatives described by Subsection (a); and

(2) determine whether it is feasible and cost-effective to implement one or more of the proposed payment initiatives.

Sec. 536.203. PURPOSE AND IMPLEMENTATION OF PAYMENT INITIATIVES. (a) If the commission determines under Section 536.202 that implementation of one or more payment initiatives is feasible and cost-effective for this state, the commission shall establish one or more payment initiatives as provided by this subchapter.

(b) The commission shall administer any payment initiative established under this subchapter. The executive commissioner may adopt rules, plans, and procedures and enter into contracts and other agreements as the executive commissioner considers appropriate and necessary to administer this subchapter.

(c) The commission may limit a payment initiative to:

(1) one or more regions in this state;

(2) one or more organized networks of physicians and other health care providers; or

(3) specified types of services provided under the child health plan or Medicaid program, or specified types of enrollees or recipients under those programs.

(d) A payment initiative implemented under this subchapter must be operated for at least one calendar year.

Sec. 536.204. STANDARDS; PROTOCOLS. (a) The executive commissioner shall:

(1) consult with the advisory committee to develop quality of care and cost-efficiency benchmarks and measurable goals that a payment initiative must meet to ensure high-quality and cost-effective health care services and healthy outcomes; and

(2) approve benchmarks and goals developed as provided by Subdivision (1).

(b) In addition to the benchmarks and goals under Subsection (a), the executive commissioner may approve efficiency performance standards that may include the sharing of realized cost savings with physicians and other health care providers who provide health care services that exceed the efficiency performance standards. The efficiency performance standards may not create any financial incentive for or involve making a payment to a physician or other health care provider that directly or indirectly induces the limitation of medically necessary services.

Sec. 536.205. PAYMENT RATES UNDER PAYMENT INITIATIVES. The executive commissioner may contract with appropriate entities, including qualified actuaries, to assist in determining appropriate payment rates for a payment initiative implemented under this subchapter.

(b) The Health and Human Services Commission shall convert the hospital reimbursement systems used under the child health plan program under Chapter 62, Health and Safety Code, and medical assistance program under Chapter 32, Human Resources Code, to the diagnosis-related groups (DRG) methodology to the extent possible as required by Section 536.005, Government Code, as added by this section, as soon as practicable after the effective date of this Act, but not later than:

(1) September 1, 2013, for reimbursements paid to children's hospitals; and

(2) September 1, 2012, for reimbursements paid to other hospitals under those programs.

(c) Not later than September 1, 2012, the Health and Human Services Commission shall begin providing performance reports to hospitals regarding the hospitals' performances with respect to potentially preventable complications as required by Section 536.151, Government Code, as designated and amended by this section.

(d) Subject to Section 536.004(b), Government Code, as added by this section, the Health and Human Services Commission shall begin making adjustments to child health plan and Medicaid reimbursements to hospitals as required by Section 536.152, Government Code, as added by this section:

(1) not later than September 1, 2012, based on the hospitals' performances with respect to reducing potentially preventable readmissions; and

(2) not later than September 1, 2013, based on the hospitals' performances with respect to reducing potentially preventable complications.

SECTION _____. LONG-TERM CARE PAYMENT INCENTIVE INITIATIVES. (a) The heading to Section 531.912, Government Code, is amended to read as follows:

Sec. 531.912. COMMON PERFORMANCE MEASUREMENTS AND PAY-FOR-PERFORMANCE INCENTIVES FOR [QUALITY OF CARE HEALTH INFORMATION EXCHANGE WITH] CERTAIN NURSING FACILITIES.

(b) Sections 531.912(b), (c), and (f), Government Code, are amended to read as follows:

(b) If feasible, the executive commissioner by rule may [shall] establish an incentive payment program for [a quality of care health information exchange with] nursing facilities that choose to participate. The [in a] program must be designed to improve the quality of care and services provided to medical assistance recipients. Subject to Subsection (f), the program may provide incentive payments in accordance with this section to encourage facilities to participate in the program.

(c) In establishing an incentive payment [a quality of care health information exchange] program under this section, the executive commissioner shall, subject to Subsection (d), adopt common [exchange information with participating nursing facilities regarding] performance measures to be used in evaluating nursing facilities that are related to structure, process, and outcomes that positively correlate to nursing facility quality and improvement. The common performance measures:

(1) must be:

(A) recognized by the executive commissioner as valid indicators of the overall quality of care received by medical assistance recipients; and

(B) designed to encourage and reward evidence-based practices among nursing facilities; and

(2) may include measures of:

(A) quality of care, as determined by clinical performance ratings published by the federal Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, or another federal agency ~~[life]~~;

(B) direct-care staff retention and turnover;

(C) recipient satisfaction, including the satisfaction of recipients who are short-term and long-term residents of facilities, and family satisfaction, as determined by the Nursing Home Consumer Assessment of Health Providers and Systems survey relied upon by the federal Centers for Medicare and Medicaid Services;

(D) employee satisfaction and engagement;

(E) the incidence of preventable acute care emergency room services use;

(F) regulatory compliance;

(G) level of person-centered care; and

(H) direct-care staff training, including a facility's ~~[level of occupancy or of facility]~~ utilization of independent distance learning programs for the continuous training of direct-care staff.

(f) The commission may make incentive payments under the program only if money is ~~[specifically]~~ appropriated for that purpose.

(c) The Department of Aging and Disability Services shall conduct a study to evaluate the feasibility of expanding any incentive payment program established for nursing facilities under Section 531.912, Government Code, as amended by this section, by providing incentive payments for the following types of providers of long-term care services, as defined by Section 22.0011, Human Resources Code, under the medical assistance program:

(1) intermediate care facilities for persons with mental retardation licensed under Chapter 252, Health and Safety Code; and

(2) providers of home and community-based services, as described by 42 U.S.C. Section 1396n(c), who are licensed or otherwise authorized to provide those services in this state.

(d) Not later than September 1, 2012, the Department of Aging and Disability Services shall submit to the legislature a written report containing the findings of the study conducted under Subsection (c) of this section and the department's recommendations.

Floor Amendment No. 3

Amend **CSSB 23** on page 37, line 26 by amending Subsection 531.502(c)(1) as follows:

"(1) identifying health care related state and local funds and program expenditures that; before September 1, 2011 ~~[2007]~~ are not being matched with federal money; and"

Amend **CSSB 23** on page 37 lines 26 and 27 and page 38 lines 1 through line 9 by striking Section (1) and inserting the following new Subsection (1):

"(1) include safeguards to ensure that the total amount of federal money provided under the disproportionate share hospitals or [and] upper payment limit supplemental payment program [programs] that is deposited as provided by Section 531.504 is, for a particular state fiscal year, at least equal to the greater of the annualized amount provided to this state under those supplemental payment programs during state fiscal year 2011 [~~2007~~], excluding amounts provided during that state fiscal year that are retroactive payments, or the state fiscal years during which the waiver is in effect; and"

Amend **CSSB 23** on page 38 lines 12 and 13 by striking (A) and inserting the following new (A):

"(A) be used to supplement hospital reimbursement under a waiver that includes terms that are consistent with, or that produce revenues consistent with, disproportionate share hospital and upper payment limit principles;"

Amend **CSSB 23** on page 39 lines 3 through 8 by striking (b) and inserting the following new Subsection (b):

"(b) The commission and comptroller may accept gifts, grants, and donations from any source, and receive intergovernmental transfers, for purposes consistent with this subchapter and the terms of the waiver. The comptroller shall deposit a gift, grant, or donation made for those purposes in the fund. Any intergovernmental transfers received, including the associated federal matching funds, shall be used only for the purposes originally intended by the transferring entity and in accordance with the terms of the waiver."

Floor Amendment No. 4

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. USE OF TRAUMA AND EMERGENCY MEDICAL SERVICES ACCOUNT TO FUND MEDICAID. Section 780.004, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (j) to read as follows:

(a) The commissioner:

(1) [7] with advice and counsel from the chairpersons of the trauma service area regional advisory councils, shall use money appropriated from the account established under this chapter to fund designated trauma facilities, county and regional emergency medical services, and trauma care systems in accordance with this section; and

(2) after consulting with the executive commissioner of the Health and Human Services Commission, shall transfer to an account in the general revenue fund money appropriated from the account established under this chapter to maximize the receipt of federal funds under the medical assistance program established under Chapter 32, Human Resources Code, and to fund provider reimbursement payments as provided by Subsection (j).

(j) Money in the account described by Subsection (a)(2) may be appropriated only to the Health and Human Services Commission to fund provider reimbursement payments under the medical assistance program established under Chapter 32, Human Resources Code, including reimbursement enhancements to the statewide dollar amount (SDA) rate used to reimburse hospitals under the program.

Floor Amendment No. 5

Amend Floor Amendment No. 4 to **CSSB 23** (page 90, prefiled amendments packet), on page 1 of the amendment as follows:

- (1) On line 16, strike "shall transfer" and substitute "may transfer".
- (2) On line 27, strike "hospitals" and substitute "designated trauma hospitals".

Floor Amendment No. 6

Amend **CSSB 23** (house committee printing) as follows:

(1) In Section 1 of the bill, in amended Section 102.054(c)(1)(H), Business & Commerce Code (page 2, line 22), strike "and".

(2) In Section 1 of the bill, in amended Section 102.054(c)(1)(I), Business & Commerce Code (page 3, line 1), after the semicolon add the following:
and

(J) Internet Crimes Against Children Task Force locations in this state recognized by the United States Department of Justice;

Floor Amendment No. 7

Amend Amendment No. 6 to **CSSB 23** by Frullo (prefiled amendment packet, page 1) as follows:

(1) In Item (1) of the amendment, on page 1, line 3, strike "102.054(c)(1)(H), Business & Commerce Code" and substitute "420.008(c)(1)(H), Government Code".

(2) In Item (2) of the amendment, on page 1, line 6, strike "102.054(c)(1)(I), Business & Commerce Code" and substitute "420.008(c)(1)(I), Government Code".

Floor Amendment No. 8

Amend **CSSB 23** (house committee printing) as follows:

In SECTION 1 of the bill, strike Subsection (c) on page 4, lines 23-27 and reletter subsequent subsections accordingly.

SECTION 1. SEXUAL ASSAULT PROGRAM FUND; FEE IMPOSED ON CERTAIN SEXUALLY ORIENTED BUSINESSES. (a) Section 102.054, Business & Commerce Code, is amended to read as follows:

Sec. 102.054. ALLOCATION OF [CERTAIN] REVENUE FOR SEXUAL ASSAULT PROGRAMS. The comptroller shall deposit the amount [first \$25 million] received from the fee imposed under this subchapter [in a state fiscal biennium] to the credit of the sexual assault program fund.

(b) The comptroller of public accounts shall collect the fee imposed under Section 102.052, Business & Commerce Code, until a court, in a final judgement upheld on appeal or no longer subject to appeal, finds Section 102.052, Business & Commerce Code, or its predecessor statute, to be unconstitutional.

(c) Section 102.055, Business & Commerce Code, is repealed.

(d) This section prevails over any other Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment, that purports to amend or repeal Subchapter B, Chapter 102, Business & Commerce Code, or any provision of Chapter 1206 (**HB 1751**), Acts of the 80th Legislature, Regular Session, 2007.

Floor Amendment No. 10

Amend **CSSB 23** (senate committee printing) on page 5 in SECTION 2 of the bill and beginning at line 21, strike through the wording indicated on line 21 and insert the following additional wording in subparagraph (b)(1)(A) of the amendment in the bill regarding new Sec. 531.02417 proposed to be added to Subchapter B, Chapter 531, Government Code:

(A) if cost-effective and in the best interests of the recipient, by a ~~state employee or contractor~~ physician licensed to practice in Texas or by a physician's assistant, registered nurse or nurse practitioner who is licensed to practice in Texas who is not the person who will deliver any necessary services to the recipient and is not affiliated with the person who will deliver those services, or by an assessment conducted by or under the direction of the patient's personal physician; and

Floor Amendment No. 11

Amend Amendment No. 10 to **CSSB 23** by D. Howard (prefiled amendment packet, page 5) by striking the text of the amendment and substituting the following:

Amend **CSSB 23** (house committee printing) in SECTION 2 of the bill, in added Section 531.02417(b)(1)(A), Government Code (page 5, line 21), by striking "state employee or contractor" and substituting "physician, physician assistant, or registered nurse who is licensed in this state and".

Floor Amendment No. 14

Amend **CSSB 23** (house committee printing) as follows:

(1) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 8, line 19), between "MEDICAL" and "HOMES", insert "AND HEALTH".

(2) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 8, line 20), between "medical" and "home", insert "or health".

(3) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 9, line 26), between "medical" and "homes", insert "or health".

(4) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 10, line 1), between "medical" and "home", insert "or health".

Floor Amendment No. 15

Amend Amendment No. 14 to **CSSB 23** by Orr (prefiled amendment packet, page 8) by striking the text of the amendment and substituting the following:

Amend **CSSB 23** (house committee printing) as follows:

(1) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 8, line 19), between "MEDICAL" and "HOMES", insert "AND HEALTH".

(2) In SECTION 3(b) of the bill, strike Section 533.0029(a), Government Code (page 8, line 19 through page 9, line 22), and substitute the following:

(a) For purposes of this section:

(1) "Patient-centered health home" means a health care relationship:

(A) between a primary health care provider, other than a physician, and a child or adult patient in which the provider:

(i) provides comprehensive primary care to the patient; and

(ii) facilitates partnerships between the provider, the patient, physicians and other health care providers, including acute care providers, and, when appropriate, the patient's family; and

(B) that encompasses the following primary principles:

(i) the patient has an ongoing relationship with the provider, and the provider is the first contact for the patient and provides continuous and comprehensive care to the patient;

(ii) the provider coordinates a team of individuals at the practice level who are collectively responsible for the ongoing care of the patient;

(iii) the provider is responsible for providing all of the care the patient needs or for coordinating with physicians or other qualified providers to provide care to the patient throughout the patient's life, including preventive care, acute care, chronic care, and end-of-life care;

(iv) the patient's care is coordinated across health care facilities and the patient's community and is facilitated by registries, information technology, and health information exchange systems to ensure that the patient receives care when and where the patient wants and needs the care and in a culturally and linguistically appropriate manner; and

(v) quality and safe care is provided.

(2) "Patient-centered medical home" means a medical relationship:

(A) between a primary care physician and a child or adult patient in which the physician:

(i) provides comprehensive primary care to the patient; and

(ii) facilitates partnerships between the physician, the patient, acute care and other care providers, and, when appropriate, the patient's family; and

(B) that encompasses the following primary principles:

(i) the patient has an ongoing relationship with the physician, who is trained to be the first contact for the patient and to provide continuous and comprehensive care to the patient;

(ii) the physician leads a team of individuals at the practice level who are collectively responsible for the ongoing care of the patient;

(iii) the physician is responsible for providing all of the care the patient needs or for coordinating with other qualified providers to provide care to the patient throughout the patient's life, including preventive care, acute care, chronic care, and end-of-life care;

(iv) the patient's care is coordinated across health care facilities and the patient's community and is facilitated by registries, information technology, and health information exchange systems to ensure that the patient receives care when and where the patient wants and needs the care and in a culturally and linguistically appropriate manner; and

(v) quality and safe care is provided.

(3) In SECTION 3(b) of the bill, adding Section 533.0029(b)(1), Government Code (page 9, line 26), between "medical" and "homes", insert "or health".

(4) In SECTION 3(b) of the bill, adding Section 533.0029(b)(2), Government Code (page 10, line 1), between "medical" and "home", insert "or health".

(5) In SECTION 3(k) of the bill (page 21, line 23), between "medical" and "homes", insert "or health".

Floor Amendment No. 18

Amend **CSSB 23** (house committee printing) by striking SECTION 9 of the bill (page 30, line 6, through page 34, line 17) and substituting the following appropriately numbered SECTION:

SECTION _____. HOME TELEMONITORING SERVICES, TELEHEALTH SERVICES, AND TELEMEDICINE MEDICAL SERVICES. (a) Section 531.001, Government Code, is amended by adding Subdivisions (4-a), (7), and (8) to read as follows:

(4-a) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health and transmission of the data to a licensed home health agency or a hospital, as those terms are defined by Section 531.02164(a).

(7) "Telehealth service" means a health service, other than a telemedicine medical service, that is delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(8) "Telemedicine medical service" means a health care service that is initiated by a physician or provided by a health professional acting under physician delegation and supervision, that is provided for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, or treatment, or for the transfer of medical data, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(b) Section 531.0216, Government Code, is amended to read as follows:

Sec. 531.0216. PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS AND TELEHEALTH SERVICE PROVIDERS UNDER MEDICAID. (a) The commission by rule shall develop and implement a system to reimburse providers of services under the state Medicaid program for services performed using telemedicine medical services or telehealth services.

(b) In developing the system, the executive commissioner by rule shall:

(1) review programs and pilot projects in other states to determine the most effective method for reimbursement;

(2) establish billing codes and a fee schedule for services;

(3) provide for an approval process before a provider can receive reimbursement for services;

(4) consult with the Department of State Health Services and the telemedicine and telehealth advisory committee to establish procedures to:

(A) identify clinical evidence supporting delivery of health care services using a telecommunications system; and

(B) ~~establish pilot studies for telemedicine medical service delivery;~~
~~and~~

~~(C)~~ annually review health care services, considering new clinical findings, to determine whether reimbursement for particular services should be denied or authorized;

(5) ~~establish pilot programs in designated areas of this state under which the commission, in administering government funded health programs, may reimburse a health professional participating in the pilot program for telehealth services authorized under the licensing law applicable to the health professional;~~

~~(6)~~ establish a separate provider identifier for telemedicine medical services providers, telehealth services providers, and home telemonitoring services providers; and

(6) [(7)] establish a separate modifier for telemedicine medical services, telehealth services, and home telemonitoring services eligible for reimbursement.

(c) The commission shall encourage health care providers and health care facilities to participate as telemedicine medical service providers or telehealth service providers in the health care delivery system. The commission may not require that a service be provided to a patient through telemedicine medical services or telehealth services when the service can reasonably be provided by a physician through a face-to-face consultation with the patient in the community in which the patient resides or works. This subsection does not prohibit the authorization of the provision of any service to a patient through telemedicine medical services or telehealth services at the patient's request.

(d) Subject to Section 153.004, Occupations Code, the commission may adopt rules as necessary to implement this section. In the rules adopted under this section, the commission shall:

(1) refer to the site where the patient is physically located as the patient site;
and

(2) refer to the site where the physician or health professional providing the telemedicine medical service or telehealth service is physically located as the distant site.

(e) The commission may not reimburse a health care facility for telemedicine medical services or telehealth services provided to a Medicaid recipient unless the facility complies with the minimum standards adopted under Section 531.02161.

(f) Not later than December 1 of each even-numbered year, the commission shall report to the speaker of the house of representatives and the lieutenant governor on the effects of telemedicine medical services, telehealth services, and home telemonitoring services on the Medicaid program in the state, including the number of physicians, ~~and~~ health professionals, and licensed health care facilities using telemedicine medical services, telehealth services, or home telemonitoring services, the geographic and demographic disposition of the physicians and health professionals, the number of patients receiving telemedicine medical services, telehealth services, and home telemonitoring services, the types of services being provided, and the cost of utilization of telemedicine medical services, telehealth services, and home telemonitoring services to the program.

~~[(g) In this section:~~

~~[(1) "Telehealth service" has the meaning assigned by Section 57.042, Utilities Code.~~

~~[(2) "Telemedicine medical service" has the meaning assigned by Section 57.042, Utilities Code.]~~

(c) The heading to Section 531.02161, Government Code, is amended to read as follows:

Sec. 531.02161. TELEMEDICINE, TELEHEALTH, AND HOME TELEMONITORING TECHNOLOGY STANDARDS.

(d) Section 531.02161(b), Government Code, is amended to read as follows:

(b) The commission and the Telecommunications Infrastructure Fund Board by joint rule shall establish and adopt minimum standards for an operating system used in the provision of telemedicine medical services, telehealth services, or home telemonitoring services by a health care facility participating in the state Medicaid program, including standards for electronic transmission, software, and hardware.

(e) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02164 to read as follows:

Sec. 531.02164. MEDICAID SERVICES PROVIDED THROUGH HOME TELEMONITORING SERVICES. (a) In this section:

(1) "Home health agency" means a facility licensed under Chapter 142, Health and Safety Code, to provide home health services as defined by Section 142.001, Health and Safety Code.

(2) "Hospital" means a hospital licensed under Chapter 241, Health and Safety Code, that provides home health services as defined by Section 142.001, Health and Safety Code.

(b) If the commission determines that establishing a statewide program that permits reimbursement under the state Medicaid program for home telemonitoring services would be cost-effective and feasible, the executive commissioner by rule shall establish the program as provided under this section.

(c) The program required under this section must:

(1) provide that home telemonitoring services are available only to persons who:

(A) are diagnosed with one or more of the following conditions:

(i) pregnancy;

(ii) diabetes;

(iii) heart disease;

(iv) cancer;

(v) chronic obstructive pulmonary disease;

(vi) hypertension;

(vii) congestive heart failure; or

(viii) mental illness or serious emotional disturbance; and

(B) exhibit two or more of the following risk factors:

(i) two or more hospitalizations in the prior 12-month period;

(ii) frequent or recurrent emergency room admissions;

(iii) a documented history of poor adherence to ordered medication

regimens;

(iv) a documented history of falls in the prior six-month period;

(v) limited or absent informal support systems;

(vi) living alone or being home alone for extended periods of time;

and

(vii) a documented history of care access challenges;

(2) ensure that clinical information gathered by a home health agency or hospital while providing home telemonitoring services is shared with the patient's physician; and

(3) ensure that the program does not duplicate disease management program services provided under Section 32.057, Human Resources Code.

(d) If, after implementation, the commission determines that the program established under this section is not cost-effective, the commission may discontinue the program and stop providing reimbursement under the state Medicaid program for home telemonitoring services, notwithstanding Section 531.0216 or any other law.

(e) The commission shall determine whether the provision of home telemonitoring services to persons who are eligible to receive benefits under both the Medicaid and Medicare programs achieves cost savings for the Medicare program. If the commission determines that the provision of home telemonitoring services achieves cost savings for the Medicare program, the commission shall pursue the creation of accountable care organizations to participate in the Medicare shared savings program in accordance with 42 U.S.C. Section 1395jjj.

(f) The heading to Section 531.02172, Government Code, is amended to read as follows:

Sec. 531.02172. TELEMEDICINE AND TELEHEALTH ADVISORY COMMITTEE.

(g) Sections 531.02172(a) and (b), Government Code, are amended to read as follows:

(a) The executive commissioner shall establish an advisory committee to assist the commission in:

(1) evaluating policies for telemedical consultations under Sections 531.02163 and 531.0217;

(2) ~~evaluating policies for telemedicine medical services or telehealth services pilot programs established under Section 531.02171;~~

~~(3)~~ ensuring the efficient and consistent development and use of telecommunication technology for telemedical consultations and telemedicine medical services or telehealth services reimbursed under government-funded health programs;

(3) ~~(4)~~ monitoring the type of consultations and other services ~~programs~~ receiving reimbursement under Section ~~Sections~~ 531.0217 ~~and 531.02171~~; and

(4) ~~(5)~~ coordinating the activities of state agencies concerned with the use of telemedical consultations and telemedicine medical services or telehealth services.

(b) The advisory committee must include:

(1) representatives of health and human services agencies and other state agencies concerned with the use of telemedical and telehealth consultations and home telemonitoring services in the Medicaid program and the state child health plan program, including representatives of:

- (A) the commission;
- (B) the Department of State Health Services;
- (C) the Texas Department of Rural Affairs;
- (D) the Texas Department of Insurance;
- (E) the Texas Medical Board;
- (F) the Texas Board of Nursing; and
- (G) the Texas State Board of Pharmacy;

(2) representatives of health science centers in this state;

(3) experts on telemedicine, telemedical consultation, and telemedicine medical services or telehealth services; ~~and~~

(4) representatives of consumers of health services provided through telemedical consultations and telemedicine medical services or telehealth services; and

(5) representatives of providers of telemedicine medical services, telehealth services, and home telemonitoring services.

(h) Section 531.02173(c), Government Code, is amended to read as follows:

(c) The commission shall perform its duties under this section with assistance from the telemedicine and telehealth advisory committee established under Section 531.02172.

(i) The following provisions of the Government Code are repealed:

- (1) Section 531.02161(a);
- (2) Sections 531.0217(a)(3) and (4);
- (3) Section 531.02171, as added by Chapter 661 (**HB 2700**), Acts of the

77th Legislature, Regular Session, 2001; and

(4) Section 531.02171, as added by Chapter 959 (**SB 1536**), Acts of the 77th Legislature, Regular Session, 2001.

(j) Not later than December 31, 2012, the Health and Human Services Commission shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the establishment and

implementation of the program to permit reimbursement under the state Medicaid program for home telemonitoring services under Section 531.02164, Government Code, as added by this section. The report must include:

- (1) the methods used by the commission to determine whether the program was cost-effective and feasible; and
- (2) if the program has been established, information regarding:
 - (A) the utilization of home telemonitoring services by Medicaid recipients under the program;
 - (B) the health outcomes of Medicaid recipients who receive home telemonitoring services under the program;
 - (C) the hospital admission rate of Medicaid recipients who receive home telemonitoring services under the program;
 - (D) the cost of the home telemonitoring services provided under the program; and
 - (E) the estimated cost savings to the state as a result of the program.

Floor Amendment No. 19

Amend Amendment No. 18 to **CSSB 23** by J. Davis in the following ways:

- (1) On page 7 strike line 13 beginning at the word "If" through line 18.
- (2) On page 7 line 25 strike "shall" and substitute "may".

Floor Amendment No. 20

Amend Amendment No. 18 to **CSSB 23** by J. Davis (prefiled amendment packet, pages 18-27) as follows:

(1) In added Section 531.02164(a)(2), Government Code (page 5, lines 23 through 24, of the amendment), strike "that provides home health services as defined by Section 142.001, Health and Safety Code".

(2) In added Section 531.02164(c)(1)(A)(vii), Government Code (page 6, line 10, of the amendment), strike "or".

(3) In added Section 531.02164(c)(1)(A)(viii), Government Code (page 6, line 12, of the amendment), strike "and" and substitute "or".

(4) In added Section 531.02164(c)(1)(A), Government Code (page 6, between lines 12 and 13, of the amendment), insert the following:

"(ix) asthma; and".

Floor Amendment No. 21

Amend Amendment No. 18 to **CSSB 23** by J. Davis of Harris (prefiled amendment packet, pages 18-27) by adding the following appropriately lettered subsection to the SECTION added by the amendment and relettering subsequent subsections accordingly:

() Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02176 to read as follows:

Sec. 531.02176. EXPIRATION OF MEDICAID REIMBURSEMENT FOR PROVISION OF TELEMEDICINE MEDICAL, TELEHEALTH, AND HOME TELEMONITORING SERVICES. Notwithstanding any other law, the commission

may not reimburse providers under the Medicaid program for the provision of telemedicine medical, telehealth, or home telemonitoring services on or after September 1, 2015.

Floor Amendment No. 22

Amend the J. Davis amendment No. 18 to **CSSB 23** on page 6, Subsection (A) by adding the following:

- (x) myocardial infarction;
- (xi) stroke.

Floor Amendment No. 23

Amend **CSSB 23** (house committee printing) as follows:

(1) Immediately following the heading to SECTION 11 of the bill (page 36, line 7), between "COLLECTION." and "Subchapter B", insert "(a)".

(2) In SECTION 11 of the bill (page 37, between lines 4 and 5), insert the following appropriately lettered subsection:

() Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.04242 to read as follows:

Sec. 32.04242. PAYOR OF LAST RESORT. The executive commissioner of the Health and Human Services Commission shall adopt rules to ensure, to the extent allowed by federal law, that the Medicaid program:

- (1) is the payor of last resort; and
- (2) provides reimbursement for services, including long-term care services, only if, and to the extent, other adequate public or private sources of payment are not available.

Floor Amendment No. 24

Amend **CSSB 23** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle B, Title 4, Government Code, is amended by adding Chapter 422 to read as follows:

CHAPTER 422. OFFICE OF INSPECTOR GENERAL

Sec. 422.001. DEFINITION. In this chapter, "office" means the office of inspector general established under this chapter.

Sec. 422.002. OFFICE OF INSPECTOR GENERAL. The office of inspector general is a division within the office of the governor.

Sec. 422.003. GENERAL RESPONSIBILITIES. (a) The office is responsible for the investigation of fraudulent insurance acts, including Medicaid fraud and fraud under the workers' compensation system, in this state.

(b) The office shall:

- (1) report to and perform duties as directed by the governor; and
- (2) provide assistance to:
 - (A) inspectors general of state agencies who have jurisdiction over insurance;
 - (B) the Health and Human Services Commission's office of inspector general; and

(C) the insurance fraud unit of the Texas Department of Insurance.

Sec. 422.004. CONTRACTS FOR INVESTIGATIVE SERVICES. The inspector general may contract with certified public accountants, qualified management consultants, or other professional experts as necessary to independently perform investigative services.

Sec. 422.005. GENERAL POWERS. The office has all the powers necessary or appropriate to carry out its responsibilities and functions under this chapter.

Sec. 422.006. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The office shall provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) The office shall refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

Sec. MEMORANDUM OF UNDERSTANDING. The office shall enter into a memorandum of understanding with the attorney general to increase security and avoid duplication of duties.

Sec. 422.007. FUNDING. The office shall be funded using existing appropriations to the office of the governor and the Health and Human Services Commission. This section expires September 1, 2013.

Floor Amendment No. 26

Amend **CSSB 23** (second reading) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. INCLUSION OF CERTAIN EYE HEALTH CARE SERVICE PROVIDERS IN MEDICAID MANAGED CARE PROVIDER NETWORKS. (a) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0065 to read as follows:

Sec. 533.0065. EYE HEALTH CARE SERVICE PROVIDERS. (a) In this section, "Texas-Mexico border region" has the meaning assigned by Section 2056.002.

(b) Subject to Section 32.047, Human Resources Code, but notwithstanding any other law, the commission shall require that each managed care organization that contracts with the commission under any Medicaid managed care model or arrangement to provide health care services to recipients in a region, including a region consisting of all or part of the Texas-Mexico border region, include in the organization's provider network each optometrist, therapeutic optometrist, and ophthalmologist in the region who:

(1) agrees to comply with the terms and conditions of the organization;

(2) agrees to accept the prevailing provider contract rate of the organization;

(3) agrees to abide by the standards of care required by the organization;

and

(4) has the credentials required by the organization.

(b) The Health and Human Services Commission shall conduct a study of the fiscal impact on this state of requiring each Medicaid managed care organization that contracts with the commission under any Medicaid managed care model or

arrangement implemented under Chapter 533, Government Code, to include in the organization's health care provider network providing services in all or part of the Texas-Mexico border region, as defined by Section 2056.002, Government Code, and other regions of the state, each optometrist, therapeutic optometrist, and ophthalmologist who meets the requirements under Section 533.0065, Government Code, as added by this section. The study must include an analysis of cost savings to the state as a result of a reduction in the number of emergency room visits by Medicaid recipients for nonemergency eye health care services that are realized after implementation of Section 533.0065, Government Code, as added by this section.

(c) Not later than September 1, 2016, the Health and Human Services Commission shall submit to the legislature a written report containing the findings of the study conducted under Subsection (b) of this section and the commission's recommendations regarding the requirement addressed in the study.

(d) The Health and Human Services Commission shall, in a contract between the commission and a Medicaid managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act, require that the managed care organization comply with Section 533.0065, Government Code, as added by this section.

(e) The Health and Human Services Commission shall seek to amend each contract entered into with a Medicaid managed care organization under Chapter 533, Government Code, before the effective date of this Act to require those managed care organizations to comply with Section 533.0065, Government Code, as added by this section. To the extent of a conflict between Section 533.0065, Government Code, as added by this section, and a provision of a contract with a managed care organization entered into before the effective date of this Act, the contract provision prevails.

Floor Amendment No. 27

Amend Amendment No. 26 to **CSSB 23** by Alonzo (prefiled amendment packet, pages 61-63) in Section 533.0065(b), Government Code, as added by the amendment, by striking "the commission shall require that" and substituting "the commission may require that".

Floor Amendment No. 30

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. PILOT PROJECT TO ESTABLISH COMPREHENSIVE ACCESS POINT FOR LONG-TERM SERVICES AND SUPPORTS. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0525 to read as follows:

Sec. 531.0525. PILOT PROJECT TO ESTABLISH COMPREHENSIVE ACCESS POINT FOR LONG-TERM SERVICES AND SUPPORTS. (a) In this section:

(1) "Aging and disability resource center" means a center established under the Aging and Disability Resource Center initiative funded in part by the federal Administration on Aging and the Centers for Medicare and Medicaid Services.

(2) "Colocated long-term services and supports staff members" means:

(A) long-term services and supports staff members who are located in the same physical office; or

(B) long-term services and supports staff members who are not located in the same physical office but who work collaboratively through the use of the telephone or other technologies.

(3) "Department of Aging and Disability Services staff members" includes community services staff members of the Department of Aging and Disability Services.

(4) "Long-term services and supports" means long-term assistance or care provided to older persons and persons with physical disabilities through the Medicaid program or other programs. The term includes assistance or care provided through the following programs:

(A) the primary home care program;

(B) the community attendant services program;

(C) the community-based alternatives program;

(D) the day activity and health services program;

(E) the promoting independence program;

(F) a program funded through the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.);

(G) a community care program funded through Title XX of the federal Social Security Act (42 U.S.C. Section 301 et seq.);

(H) the in-home and family support program; and

(I) a nursing facility program.

(5) "Long-term services and supports staff" means:

(A) one or more of the commission's Medicaid eligibility determination staff members;

(B) one or more Department of Aging and Disability Services staff members; and

(C) one or more area agency on aging staff members.

(6) "Pilot project site" means a location in an area served by the pilot project established under this section where colocated long-term services and supports staff members work collaboratively to provide information and tentatively assess functional and financial eligibility to initiate long-term services and supports.

(7) "Tentative assessment of functional and financial eligibility" means an expedited preliminary screening of an applicant to determine Medicaid eligibility with the goal of initiating services within seven business days. The tentative assessment does not guarantee state payment for services.

(b) Subject to availability of funds appropriated by the legislature for this purpose, the commission shall develop and implement a pilot project to establish a comprehensive access point system for long-term services and supports in which colocated long-term services and supports staff members work in collaboration to provide all necessary services in connection with long-term services and supports from the intake process to the start of service delivery. The pilot project must require that, at a minimum, the staff members work collaboratively to:

(1) inform and educate older persons, persons with physical disabilities, and their family members and other caregivers about long-term services and supports for which they may qualify;

(2) screen older persons and persons with physical disabilities requesting long-term services and supports;

(3) provide a tentative assessment of functional and financial eligibility for older persons and persons with physical disabilities requesting long-term services and supports for which there are no interest lists; and

(4) make final determinations of eligibility for long-term services and supports.

(c) In developing and implementing the pilot project, the commission shall ensure that:

(1) the pilot project site has colocated long-term services and supports staff members who are located in the same physical office;

(2) the pilot project site serves as a comprehensive access point for older persons and persons with physical disabilities to obtain information about long-term services and supports for which they may qualify and access long-term services and supports in the site's service area;

(3) the pilot project site is designed and operated in accordance with best practices adopted by the executive commissioner after the commission reviews best practices for similar initiatives in other states and professional policy-based research describing best practices for successful initiatives;

(4) the colocated long-term services and supports staff members supporting the pilot project site include:

(A) one full-time commission staff member who determines eligibility for the Medicaid program and who:

(i) has full access to the Texas Integrated Eligibility Redesign System (TIERS);

(ii) has previously made Medicaid long-term care eligibility determinations; and

(iii) is dedicated primarily to making eligibility determinations for incoming clients at the site;

(B) sufficient Department of Aging and Disability Services staff members to carry out the tentative functional and financial eligibility and screening functions at the site;

(C) sufficient area agency on aging staff members to:

(i) assist with the performance of screening functions and service coordination for services funded under the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.), such as meals programs; and

(ii) identify other locally funded and supported services that will enable older persons and persons with physical disabilities to continue to reside in the community to the extent reasonable; and

(D) any available staff members from local service agencies; and

(5) the colocated long-term services and supports staff members of the pilot project site;

(A) process intakes for long-term services and supports in person or by telephone or through the Internet;

(B) use a standardized screening tool to tentatively assess both functional and financial eligibility with the goal of initiating services within seven business days;

(C) closely coordinate with local hospital discharge planners and staff members of extended rehabilitation units of local hospitals and nursing homes; and

(D) inform persons about community-based services available in the area served by the pilot project.

(d) The pilot project must be implemented in a single county or a multicounty area, as determined by the commission. The pilot project site must be located within an aging and disability resource center service area. If the commission finds that there is no aging and disability resource center that is willing or able to accommodate a pilot project site on the date the pilot project is to be implemented, the pilot project site may be located at another appropriate location.

(e) Not later than January 31, 2013, the commission shall submit a report concerning the pilot project to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services. The report must:

(1) contain an evaluation of the operation of the pilot project;

(2) contain an evaluation of the pilot project's benefits for persons who received services;

(3) contain a calculation of the costs and cost savings that can be attributed to implementation of the pilot project;

(4) include a recommendation regarding adopting improved policies and procedures concerning long-term services and supports with statewide applicability, as determined from information obtained in operating the pilot project;

(5) include a recommendation regarding the feasibility of expanding the pilot project to other areas of this state or statewide; and

(6) contain the perspectives of service providers participating in the pilot project.

(f) This section expires September 1, 2015.

(b) Not later than December 31, 2011, the Health and Human Services Commission shall ensure that the pilot project site is in operation under the pilot project required by Section 531.0525, Government Code, as added by this section.

Floor Amendment No. 32

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . CONTRACTS FOR PRESCRIPTION DRUG BENEFITS. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0696 to read as follows:

Sec. 531.0696. CONSIDERATIONS IN AWARDING CERTAIN PRESCRIPTION DRUG BENEFITS CONTRACTS. (a) This section applies to:

(1) the vendor drug program for the Medicaid and child health plan programs;

(2) the kidney health care program;

(3) the children with special health care needs program; and

(4) any other state program administered by the commission that provides

prescription drug benefits.

(b) The commission may not contract with a managed care organization, including a health maintenance organization, or a pharmacy benefit manager to provide prescription drug benefits under a program to which this section applies if the organization or pharmacy benefit manager, in connection with a bid, proposal, or contract with a governmental entity:

(1) in the preceding five years:

(A) made a material misrepresentation or committed fraud;

(B) committed a breach of contract;

(C) was convicted of violating a state or federal law; or

(D) was assessed a penalty or fine in the amount of \$100,000 or more in

a state or federal administrative proceeding; or

(2) is the defendant in a pending state or federal criminal case or subject to a pending state or federal enforcement action.

Floor Amendment No. 33

Amend Amendment No. 32 by Brown to **CSSB 23** (page 79, prefiled amendment packet) as follows:

(1) In Section 531.0696(b)(1), Government Code, as added by the amendment, strike "in the preceding five years" and substitute "in the preceding three years".

(2) In Section 531.0696(b)(1)(D), Government Code, as added by the amendment, strike "\$100,000" and substitute "\$500,000".

Floor Amendment No. 34

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . COMMUNICATIONS REGARDING PRESCRIPTION DRUG BENEFITS. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0697 to read as follows:

Sec. 531.0697. PRIOR APPROVAL AND PROVIDER ACCESS TO CERTAIN COMMUNICATIONS WITH CERTAIN RECIPIENTS. (a) This section applies to:

(1) the vendor drug program for the Medicaid and child health plan programs;

(2) the kidney health care program;

(3) the children with special health care needs program; and

(4) any other state program administered by the commission that provides

prescription drug benefits.

(b) A managed care organization, including a health maintenance organization, or a pharmacy benefit manager, that administers claims for prescription drug benefits under a program to which this section applies shall, at least 10 days before the date the organization or pharmacy benefit manager intends to deliver a communication to recipients collectively under a program:

- (1) submit a copy of the communication to the commission for approval;
and
(2) if applicable, allow the pharmacy providers of recipients who are to receive the communication access to the communication.

Floor Amendment No. 35

Amend **CSSB 23** (house committee printing) by adding the following appropriately lettered subsections to SECTION 3 of the bill and relettering subsequent subsections of SECTION 3 accordingly:

() Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0073 to read as follows:

Sec. 533.0073. MEDICAL DIRECTOR QUALIFICATIONS. A person who serves as a medical director for a managed care plan must be a physician licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

() Section 533.0073, Government Code, as added by this section, applies only to a person hired or otherwise retained as the medical director of a Medicaid managed care plan on or after the effective date of this Act. A person hired or otherwise retained before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Floor Amendment No. 36

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . REIMBURSEMENT FOR INDIGENT HEALTH CARE SERVICES. (a) Subchapter A, Chapter 61, Health and Safety Code, is amended by adding Section 61.012 to read as follows:

Sec. 61.012. REIMBURSEMENT FOR SERVICES. (a) In this section, "sponsored alien" means a person who has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) and who, as a condition of admission, was sponsored by a person who executed an affidavit of support on behalf of the person.

(b) A public hospital or hospital district that provides health care services to a sponsored alien under this chapter may recover from a person who executed an affidavit of support on behalf of the alien the costs of the health care services provided to the alien.

(c) A public hospital or hospital district described by Subsection (b) must notify a sponsored alien and a person who executed an affidavit of support on behalf of the alien, at the time the alien applies for health care services, that a person who executed an affidavit of support on behalf of a sponsored alien is liable for the cost of health care services provided to the alien.

(b) Section 61.012, Health and Safety Code, as added by this section, applies only to health care services provided by a public hospital or hospital district on or after the effective date of this Act.

Floor Amendment No. 37

Amend Floor Amendment No. 36 to **CSSB 23** (page 83, prefiled amendments packet), on page 1 of the amendment, as follows:

(1) On line 2, strike "SECTION" and substitute "SECTIONS".

(2) Immediately following line 28, add the following:

SECTION _____. Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.024181 and 531.024182 to read as follows:

Sec. 531.024181. VERIFICATION OF IMMIGRATION STATUS OF APPLICANTS FOR CERTAIN BENEFITS WHO ARE QUALIFIED ALIENS. (a)

This section applies only with respect to the following benefits programs:

(1) the child health plan program under Chapter 62, Health and Safety Code;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) the medical assistance program under Chapter 32, Human Resources Code; or

(4) the nutritional assistance program under Chapter 33, Human Resources Code.

(b) If, at the time of application for benefits under a program to which this section applies, a person states that the person is a qualified alien, as that term is defined by 8 U.S.C. Section 1641(b), the commission shall, to the extent allowed by federal law, verify information regarding the immigration status of the person using an automated system or systems where available.

(c) The executive commissioner shall adopt rules necessary to implement this section.

(d) Nothing in this section adds to or changes the eligibility requirements for any of the benefits programs to which this section applies.

Sec. 531.024182. VERIFICATION OF SPONSORSHIP INFORMATION FOR CERTAIN BENEFITS RECIPIENTS; REIMBURSEMENT. (a) In this section, "sponsored alien" means a person who has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) and who, as a condition of admission, was sponsored by a person who executed an affidavit of support on behalf of the person.

(b) If, at the time of application for benefits, a person stated that the person is a sponsored alien, the commission may, to the extent allowed by federal law, verify information relating to the sponsorship, using an automated system or systems where available, after the person is determined eligible for and begins receiving benefits under any of the following benefits programs:

(1) the child health plan program under Chapter 62, Health and Safety Code;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) the medical assistance program under Chapter 32, Human Resources Code; or

(4) the nutritional assistance program under Chapter 33, Human Resources Code.

(c) If the commission verifies that a person who receives benefits under a program listed in Subsection (b) is a sponsored alien, the commission may seek reimbursement from the person's sponsor for benefits provided to the person under those programs to the extent allowed by federal law, provided the commission determines that seeking reimbursement is cost-effective.

(d) If, at the time a person applies for benefits under a program listed in Subsection (b), the person states that the person is a sponsored alien, the commission shall make a reasonable effort to notify the person that the commission may seek reimbursement from the person's sponsor for any benefits the person receives under those programs.

(e) The executive commissioner shall adopt rules necessary to implement this section, including rules that specify the most cost-effective procedures by which the commission may seek reimbursement under Subsection (c).

(f) Nothing in this section adds to or changes the eligibility requirements for any of the benefits programs listed in Subsection (b).

SECTION _____. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

Floor Amendment No. 38

Amend Amendment No. 36 by V. Taylor to **CSSB 23** (page 83, prefiled amendment packet) in the added SECTION entitled "REIMBURSEMENT FOR INDIGENT HEALTH CARE SERVICES" by adding the following appropriately lettered subsection to that SECTION and relettering subsequent subsections accordingly:

(____) Section 61.033, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) In accordance with Subsection (a), if an eligible resident receives health care services from a county other than the county in which the resident resides, the county in which the resident resides is liable for those costs.

Floor Amendment No. 39

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. COUNTY ELIGIBILITY TO RECEIVE STATE ASSISTANCE FOR HEALTH CARE EXPENDITURES. (a) Sections 61.037(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The department may distribute funds as provided by this subchapter to eligible counties to assist the counties in providing:

(1) health care services under Sections 61.028 and 61.0285 to their eligible county residents; or

(2) health care services provided by Medicaid as described by Subsection (b)(1).

(b) Except as provided by Subsection (c), (d), (e), or (g), to be eligible for state assistance, a county must:

(1) spend in a state fiscal year at least eight percent of the county general revenue levy for that year to provide health care services described by Subsection (a) to its eligible county residents who qualify for assistance under Section 61.023 and may include as part of the county's eight percent expenditure level any payment made by the county for health care services provided through Medicaid, including the county's direct reimbursement to health care providers and indirect reimbursement through transfers of funds to the state for health care services provided through Medicaid; and

(2) notify the department, not later than the seventh day after the date on which the county reaches the expenditure level, that the county has spent at least six percent of the applicable county general revenue levy for that year to provide health care services described by Subsection (a)(1) [~~(a)~~] to its eligible county residents who qualify for assistance under Section 61.023 or health care services provided by Medicaid as described by Subdivision (1).

(b) Section 61.038, Health and Safety Code, is amended to read as follows:

Sec. 61.038. DISTRIBUTION OF ASSISTANCE FUNDS. (a) If the department determines that a county is eligible for assistance, the department shall distribute funds appropriated to the department from the indigent health care assistance fund or any other available fund to the county to assist the county in providing:

(1) health care services under Sections 61.028 and 61.0285 to its eligible county residents who qualify for assistance as described by Section 61.037; or

(2) health care services provided through Medicaid as described by Section 61.037(b)(1).

(b) State funds provided under this section to a county must be equal to at least 90 percent of the actual payment for the health care services for the county's eligible residents, including any payments made by the county for health care services provided through Medicaid as described by Section 61.037(b)(1), during the remainder of the state fiscal year after the eight percent expenditure level is reached.

Floor Amendment No. 40

Amend **CSSB 23** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 262.023(b), Health and Safety Code, is amended to read as follows:

(b) The board may delegate to the manager or executive director the authority to manage the hospital and to employ and discharge employees other than physicians hired in accordance with Section 262.0235.

SECTION _____. Subchapter C, Chapter 262, Health and Safety Code, is amended by adding Section 262.0235 to read as follows:

Sec. 262.0235. EMPLOYMENT OF PHYSICIANS. (a) This section applies only to an authority that is created by the governing body of a municipality with a population of less than 10,000 and that owns or operates a hospital with more than 50 licensed beds.

(b) The board of an authority may employ a physician and retain all or part of the professional income generated by the physician for medical services provided at a hospital or other health care facility owned or operated by the authority if the board satisfies the requirements of this section.

(c) The board of an authority shall:

(1) appoint a chief medical officer for the authority who has been recommended by the medical staff of the authority; and

(2) adopt, maintain, and enforce policies to ensure that a physician employed by the authority exercises the physician's independent medical judgment in providing care to patients.

(d) The policies adopted under this section must include:

(1) policies relating to:

(A) credentialing and privileges;

(B) quality assurance;

(C) utilization review;

(D) peer review and due process; and

(E) medical decision-making; and

(2) the implementation of a complaint mechanism to process and resolve complaints regarding interference or attempted interference with a physician's independent medical judgment.

(e) The policies adopted under this section must be approved by the medical staff of the authority. The medical staff of the authority and the board shall jointly develop and implement a conflict management policy to resolve any conflict between a medical staff policy and a board policy.

(f) For all matters relating to the practice of medicine, each physician employed by an authority shall ultimately report to the chief medical officer of the authority.

(g) The chief medical officer shall notify the Texas Medical Board that the board is employing physicians under this section and that the chief medical officer is the board's designated contact with the Texas Medical Board. The chief medical officer shall immediately report to the Texas Medical Board any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

(h) The board of an authority shall give equal consideration regarding the issuance of medical staff membership and privileges to physicians employed by the authority and physicians not employed by the authority.

(i) A physician employed by an authority shall retain independent medical judgment in providing care to patients and may not be disciplined for reasonably advocating for patient care.

(j) If an authority provides professional liability coverage for physicians employed by the authority, a physician employed by the authority may participate in the selection of the professional liability coverage, has the right to an independent defense at the physician's own cost, and retains the right to consent to the settlement of any action or proceeding brought against the physician.

(k) If a physician employed by an authority enters into an employment agreement that includes a covenant not to compete, the agreement is subject to Section 15.50, Business & Commerce Code.

(l) The board of an authority may not delegate to the manager or executive director of a hospital owned or operated by the hospital authority the authority to hire a physician.

(m) This section may not be construed as authorizing the board to supervise or control the practice of medicine as prohibited under Subtitle B, Title 3, Occupations Code.

Floor Amendment No. 41

Amend Amendment No. 40 to **CSSB 23** by P. King on page 87 by striking lines 12-15 and substitution the following:

Sec. 262.0235. EMPLOYMENT OF PHYSICIANS. (a) this section applies only to an authority that is:

(1) created by the governing body of a municipality with a population of less than 10,00 and that owns or operates a hospital with more than 50 licensed beds;
or

(2) classified as a rural referral center under Section 1886 (d)(1)(C)(i), Social Security Act (42 U.S.C. Section 1395ww(d)(1)(C)(i)) that is not located in a metropolitan statistical area as defined by the United States Office of Management and Budget.

Floor Amendment No. 42

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. TESTIMONY OF MEMBERS AND FORMER MEMBERS OF STATE BOARD OF DENTAL EXAMINERS. Section 254.018, Occupations Code, is amended to read as follows:

Sec. 254.018. ~~[EXPERT]~~ TESTIMONY. (a) A member or former member of the board may not express an oral or written opinion or serve as an expert witness in a suit involving a health care liability claim against a person licensed or registered under this subtitle [dentist] for injury to or death of a patient or for a violation of the standard of care or the commission of professional malpractice [unless the member receives approval from the board or an executive committee of the board to serve as an expert witness].

(b) This section applies to a former member of the board until the second anniversary of the date the member's term expires or the member resigns from the board.

Floor Amendment No. 43

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. ELECTRONIC SUBMISSION OF CLAIMS FOR MEDICAL ASSISTANCE REIMBURSEMENT FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0314 to read as follows:

Sec. 32.0314. REIMBURSEMENT FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES. The executive commissioner of the Health and Human Services Commission shall adopt rules requiring the electronic submission of any claim for reimbursement for durable medical equipment and supplies under the medical assistance program.

Floor Amendment No. 45

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . ADMINISTRATION OF MEDICATION. (a) Chapter 161, Human Resources Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. ADMINISTRATION OF MEDICATION FOR CLIENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

Sec. 161.091. DEFINITIONS. In this subchapter:

(1) "Administration of medication" means:

(A) removing a unit or dose of medication from a previously dispensed, properly labeled container;

(B) verifying the medication with the medication order;

(C) giving the proper medication in the proper dosage to the proper client at the proper time by the proper administration route; and

(D) recording the time of administration and dosage administered.

(2) "Client" means a person with an intellectual and developmental disability who is receiving services from a facility or program listed in Section 161.092.

(3) "Unlicensed person" means an individual not licensed as a health care provider who provides services at or for a facility or program listed in Section 161.092, including:

(A) a nurse aide, orderly, assistant, attendant, technician, home health aide, medication aide with a permit issued by a state agency, or other individual who provides personal health care-related services;

(B) a person who is monetarily compensated to perform certain health-related tasks and functions in a complementary or assistive role to a licensed nurse who provides direct client care or performs common nursing functions;

(C) a person who performs those tasks and functions as a volunteer but does not qualify as a friend providing gratuitous nursing care of the sick under Section 301.004, Occupations Code; or

(D) a person who is a professional nursing student who provides care for monetary compensation and not as part of a formal educational program.

Sec. 161.092. APPLICABILITY. This subchapter applies only to administration of medication provided to certain persons with intellectual and developmental disabilities who are served:

(1) in a small facility with not less than one and not more than eight beds that is licensed or certified under Chapter 252, Health and Safety Code;

(2) in a medium facility with not less than nine and not more than 13 beds that is licensed or certified under Chapter 252, Health and Safety Code; or

(3) by one of the following Section 1915(c) waiver programs administered by the Department of Aging and Disability Services to serve persons with intellectual and developmental disabilities:

(A) the Home and Community-Based Services waiver program; or

(B) the Texas Home Living waiver program.

Sec. 161.093. ADMINISTRATION OF MEDICATION. (a) Notwithstanding other law, an unlicensed person may provide administration of medication to a client without the requirement that a registered nurse delegate or oversee each administration if:

(1) the medication is:

(A) an oral medication;

(B) a topical medication; or

(C) a metered dose inhaler;

(2) the medication is administered to the client for a stable or predictable condition;

(3) the client has been personally assessed by a registered nurse initially and in response to significant changes in the client's health status, and the registered nurse has determined that the client's health status permits the administration of medication by an unlicensed person; and

(4) the unlicensed person has been:

(A) trained by a registered nurse or licensed vocational nurse under the direction of a registered nurse regarding proper administration of medication; or

(B) determined to be competent by a registered nurse or licensed vocational nurse under the direction of a registered nurse regarding proper administration of medication, including through a demonstration of proper technique by the unlicensed person.

(b) The administration of medication other than the medications described by Subsection (a)(1) is subject to the rules of the Texas Board of Nursing regarding the delegation of nursing tasks to unlicensed persons in independent living environments such as the facilities and programs listed in Section 161.092.

Sec. 161.094. DEPARTMENT DUTIES. (a) The department shall ensure that:

(1) administration of medication by an unlicensed person under this subchapter is reviewed at least annually and after any significant change in a client's condition by a registered nurse or a licensed vocational nurse under the supervision of a registered nurse; and

(2) a facility or program listed in Section 161.092 has policies to ensure that the determination of whether an unlicensed person may provide administration of medication to a client under Section 161.093 may be made only by a registered nurse.

(b) The department shall verify that:

(1) each client is assessed to identify the client's needs and abilities regarding the client's medications;

(2) the administration of medication by an unlicensed person to a client is performed only by an unlicensed person who is authorized to perform that administration under Section 161.093; and

(3) the administration of medication to each client is performed in such a manner as to ensure the greatest degree of independence, including the use of an adaptive or assistive aid, device, or strategy as allowed under program rules.

(c) The department shall enforce this subchapter.

Sec. 161.095. LIABILITY. (a) A registered nurse performing a client assessment required under Section 161.093, or a registered nurse or licensed vocational nurse training an unlicensed person or determining whether an unlicensed person is competent to perform administration of medication under Section 161.093, may be held accountable or civilly liable only in relation to whether the nurse properly:

(1) performed the assessment;

(2) conducted the training; and

(3) determined whether the unlicensed person is competent to provide administration of medication to clients.

(b) The Texas Board of Nursing may take disciplinary action against a registered nurse or licensed vocational nurse under this subchapter only in relation to whether:

(1) the registered nurse properly performed the client assessment required by Section 161.093;

(2) the registered nurse or licensed vocational nurse properly trained the unlicensed person in the administration of medication; and

(3) the registered nurse or licensed vocational nurse properly determined whether an unlicensed person is competent to provide administration of medication to clients.

(c) A registered nurse or licensed vocational nurse may not be held accountable or civilly liable for the acts or omissions of an unlicensed person performing administration of medication.

Sec. 161.096. CONFLICT WITH OTHER LAW. This subchapter controls to the extent of a conflict with other law.

(b) The Texas Board of Nursing and the Texas Department of Aging and Disability Services shall conduct a pilot program to evaluate licensed vocational nurses providing on-call services by telephone to clients, as defined by Section 161.091, Human Resources Code, as added by this section, who are under the care of the licensed vocational nurses. The licensed vocational nurses shall use standardized and validated protocols or decision trees in performing telephone on-call services in the pilot program. The department shall collect data to evaluate the efficacy of licensed vocational nurses performing telephone on-call services in the pilot program. The pilot program must begin not later than September 1, 2011.

(c) The Texas Board of Nursing and the Department of Aging and Disability Services, in consultation with affected stakeholders, including public and private providers, registered and licensed vocational nurses employed by the facilities or providers of services listed in Section 161.092, Human Resources Code, as added by this section, and other persons or entities the executive director of the board and the commissioner of the department consider appropriate, shall:

(1) develop the goals and measurable outcomes of the pilot program;

(2) review the outcomes of the pilot program and make recommendations regarding potential regulatory or statutory changes; and

(3) on notice of unsafe or ineffective nursing care discovered in the pilot program, review the data or the outcomes and make recommendations for corrective action.

(d) Not later than December 1, 2012, the Texas Board of Nursing and the Department of Aging and Disability Services shall submit a report detailing the findings of the pilot program and any jointly developed recommendations to the Senate Committee on Health and Human Services and the House Committee on Public Health.

(e) Subsections (b)-(d) of this section and this subsection expire September 1, 2015.

(f) In developing any policies, processes, or training curriculum required by Subchapter D-1, Chapter 161, Human Resources Code, as added by this section, the Texas Department of Aging and Disability Services shall convene an advisory committee of affected stakeholders, including public and private providers and registered and licensed vocational nurses employed by the facilities or providers of services listed in Section 161.092, Human Resources Code, as added by this section, and other persons or entities the department considers appropriate.

Floor Amendment No. 46

Amend Amendment No. 2 to **CSSB 23** by Zerwas (prefiled amendment packet, pages 28-52), in item (7), in added Section 536.005, Government Code (page 12, between lines 21 and 22), by inserting the following:

(a-1) In converting reimbursement systems under Subsection (a), the commission may examine and consider incorporating elements of reimbursement methodologies that address historical disparities in the provision of health care services to women, children, and persons with mental illnesses.

Floor Amendment No. 47

Amend **CSSB 23** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0025 to read as follows:

Sec. 531.0025. RESTRICTION ON CERTAIN FUNDS RECEIVED. Notwithstanding any other law, any money received by health and human services agencies for family planning services, including grant money, may only be awarded or otherwise provided to a person or facility that does not perform abortions or provide abortion-related services.

SECTION _____. Section 32.024, Human Resources Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department shall ensure that money spent under the medical assistance program is not used to perform abortions or provide abortion-related services.

SECTION _____. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION _____. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Floor Amendment No. 48

Amend Amendment No. 47 by Landtroop to **CSSB 23** (page 65, prefiled amendment packet) as follows:

(1) In added Section 531.0025, Government Code (page 1, line 6 of the amendment), following "RECEIVED." insert "(a)".

(2) In added Section 531.0025, Government Code (page 1, line 11 of the amendment), between "services" and the underlined period, insert "except an abortion or an abortion related service in a medical emergency".

(3) In added Section 531.0025, Government Code (page 1, between lines 11 and 12 of the amendment), insert the following:

(b) In this section, "medical emergency" means a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

Floor Amendment No. 49

Amend **CSSB 23** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 161.073, Human Resources Code, is amended to read as follows:

Sec. 161.073. RULES. (a) The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

(b) To the extent allowed by federal law, the executive commissioner shall adopt rules:

(1) requiring that the on-site survey process through which the department certifies ICF-MR facilities and Home and Community-based Services (HCS) providers includes a requirement that the department assign each provider, as a result of an on-site survey, a rating of "excellent," "good," or "average or below average"; and

(2) prescribing a schedule for follow-up on-site surveys under which:

(A) a provider who receives a rating of "excellent" on the most recent survey conducted is subject to another survey not earlier than three years after the date the provider receives the rating;

(B) a provider who receives a rating of "good" on the most recent survey conducted is subject to another survey not earlier than two years after the date the provider receives the rating; and

(C) a provider who receives a rating of "average or below average" on the most recent survey conducted is subject to another survey not earlier than one year after the date the provider receives the rating.

SECTION _____. Section 161.076, Human Resources Code, as added by Chapter 284 (**SB 643**), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

Sec. 161.076. ON-SITE SURVEYS OF CERTAIN PROVIDERS. Subject to rules adopted under Section 161.073(b), at [At] least every three years [12 months], the department shall conduct an unannounced on-site survey in each group home, other than a foster home, at which a Home and Community-based Services (HCS) provider provides services.

The amendments were read.

Senator Nelson 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 23** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Nelson, Chair; Deuell, Hinojosa, Shapiro, and Williams.

SENATE BILL 655 WITH HOUSE AMENDMENTS

Senator Hegar called **SB 655** 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 655** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the continuation, functions, and name of the Railroad Commission of Texas.

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

SECTION 1. The heading to Chapter 81, Natural Resources Code, is amended to read as follows:

CHAPTER 81. TEXAS OIL AND GAS [RAILROAD] COMMISSION [OF
TEXAS]

SECTION 2. Section 81.001, Natural Resources Code, is amended to read as follows:

Sec. 81.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Oil and Gas [Railroad] Commission [of
Texas].

(2) "Commissioner" means any member of the Texas Oil and Gas [Railroad]
Commission [of Texas].

SECTION 3. Subchapter A, Chapter 81, Natural Resources Code, is amended by adding Section 81.003 to read as follows:

Sec. 81.003. TEXAS OIL AND GAS COMMISSION. (a) The Railroad Commission of Texas is renamed the Texas Oil and Gas Commission.

(b) A reference in law to:

(1) the Railroad Commission of Texas means the Texas Oil and Gas Commission; and

(2) a railroad commissioner or a member of the Railroad Commission of Texas means a member of the Texas Oil and Gas Commission.

SECTION 4. Section 81.01001, Natural Resources Code, is amended to read as follows:

Sec. 81.01001. SUNSET PROVISION. The Texas Oil and Gas [Railroad] Commission [of Texas] is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2023 [2011].

SECTION 5. Subchapter B, Chapter 81, Natural Resources Code, is amended by adding Section 81.010015 to read as follows:

Sec. 81.010015. ELECTION AND TERMS OF COMMISSIONERS; CHAIRMAN. (a) The commission is composed of three commissioners elected at the general election for state and county officers.

(b) Commissioners serve staggered terms of six years, with the term of one commissioner expiring December 31 of each even-numbered year.

(c) The commissioner elected at the general election in 2012 and every sixth year after that year serves as the chairman of the commission.

(d) The designation of the office of chairman of the commission under Subsection (c) identifies the office for all purposes, including identification on official ballots for primary and general elections.

SECTION 6. Sections 81.01002 and 81.01004, Natural Resources Code, are amended to read as follows:

Sec. 81.01002. DUTIES OF CHAIRMAN. The [commissioners shall elect one commissioner as the] chairman of the commission shall ensure that the commission executes and implements the commission's administrative duties and responsibilities.

Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF CONDUCT, [AND] CONFLICT OF INTEREST, AND DISCLOSURE OF REASON FOR RECUSAL. (a) A commissioner is subject to the provisions of Chapter 572, Government Code, that apply to elected officers, including the requirements governing personal financial statements, standards of conduct, and conflicts of interest.

(b) A commissioner who voluntarily recuses the commissioner from a commission decision because the commissioner has a material interest in the matter shall disclose the material interest in writing.

SECTION 7. Subchapter B, Chapter 81, Natural Resources Code, is amended by adding Sections 81.010045 and 81.010046 to read as follows:

Sec. 81.010045. CERTAIN POLITICAL CONTRIBUTIONS RESTRICTED. (a) In this section, "political contribution" has the meaning assigned by Section 251.001, Election Code.

(b) A commissioner may not knowingly accept a political contribution given or offered with the intention that it be used in connection with a campaign for or the holding of a statewide or federal office, other than the office of commissioner.

(c) A commissioner may not knowingly accept a political contribution given or offered with the intention that it be used in connection with a campaign for the office of commissioner, except:

(1) beginning one year before the date of the next general election at which any commissioner's office is filled; and

(2) ending on the 30th day before the date the first regular legislative session after that general election convenes.

(d) A person other than a commissioner may not knowingly accept a political contribution given or offered with the intention that it be used in connection with a campaign for the office of commissioner, except:

(1) during the period:

(A) beginning one year before the date of the next general election at which any commissioner's office is filled; and

(B) ending on the 30th day before the date the first regular legislative session after that general election convenes; or

(2) during the period beginning on the date a vacancy in the office of commissioner occurs and ending on the date that vacancy is filled.

Sec. 81.010046. AUTOMATIC RESIGNATION. If a person who is a member of the commission announces the person's candidacy, or in fact becomes a candidate, in any general, special, or primary election for any office of profit or trust under the laws of this state or the United States other than the office of commissioner at any time when the unexpired term of the office then held by the person exceeds one year, that announcement or that candidacy constitutes an automatic resignation of the office of commissioner.

SECTION 8. Sections 81.01005, 81.01008, and 81.017, Natural Resources Code, are amended to read as follows:

Sec. 81.01005. NAME AND SEAL. (a) The commissioners are known collectively as the "Texas Oil and Gas ~~Railroad~~ Commission ~~[of Texas]~~."

(b) The seal of the commission contains a star of five points with the words "Texas Oil and Gas ~~Railroad~~ Commission ~~[of Texas]~~" engraved on it.

Sec. 81.01008. PUBLIC HEARINGS ~~[SESSIONS]~~. The commission may hold public hearings ~~[sessions]~~ at any place in this state when considered necessary.

Sec. 81.017. ADDITIONAL EMPLOYEES. The commission may employ personnel necessary to perform its duties ~~[gaugers, inspectors, investigators, supervisors, and clerical employees. These employees shall include a chief engineer, chief petroleum engineer, and an administrative chief, and their salaries shall be paid in the amounts provided in the General Appropriations Act].~~

SECTION 9. Section 81.0521(c), Natural Resources Code, is amended to read as follows:

(c) The ~~[Two-thirds of the]~~ proceeds from this fee, ~~excluding~~ ~~[including]~~ any penalties collected in connection with the fee, shall be deposited to the credit of the oil and gas regulation and ~~[oil field]~~ cleanup fund ~~[as provided by Section 91.111].~~

SECTION 10. Sections 81.0531(c), (d), and (e), Natural Resources Code, are amended to read as follows:

(c) In determining the amount of the penalty, the commission shall consider the ~~[permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged. In determining the amount of the penalty for a violation of a provision of this title or a rule, order, license, permit, or certificate that relates to pipeline safety, the commission shall consider the]~~ guidelines adopted under Subsection (d).

(d) The commission by rule shall adopt guidelines to be used in determining the amount of the penalty ~~[for a violation of a provision of this title or a rule, order, license, permit, or certificate that relates to pipeline safety]~~. The guidelines shall include a penalty calculation worksheet that specifies the typical penalty for certain violations, circumstances justifying enhancement of a penalty and the amount of the enhancement, and circumstances justifying a reduction in a penalty and the amount of the reduction. The guidelines shall take into account:

- (1) the permittee's history of previous violations, including the number of previous violations;
- (2) the seriousness of the violation and of any pollution resulting from the violation;
- (3) any hazard to the health or safety of the public;
- (4) the degree of culpability;
- (5) the demonstrated good faith of the person charged; and
- (6) any other factor the commission considers relevant.

(e) A penalty collected under this section shall be deposited to the credit of the general revenue ~~[oil field cleanup]~~ fund.

SECTION 11. Section 81.056(g), Natural Resources Code, is amended to read as follows:

(g) The commission may use money in the oil and gas regulation and [oil field] cleanup fund to implement this section. The amount of money in the fund the commission may use for that purpose may not exceed the amount of money in the fund that is derived from fees collected under Section 91.142 from common carriers or owners or operators of pipelines as determined annually by the commission.

SECTION 12. Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Sections 81.065, 81.066, 81.067, 81.068, 81.069, 81.070, and 81.071 to read as follows:

Sec. 81.065. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

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

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the 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:

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

(a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

(d) The commission's alternative dispute resolution procedures do not apply to the resolution of an informal complaint described by Section 81.058 or filed under Section 85.065.

Sec. 81.066. ENFORCEMENT POLICY. (a) The commission by rule shall adopt an enforcement policy to guide the employees of the commission in evaluating violations of the provisions of this title that pertain to safety or the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate that pertains to safety or the prevention or control of pollution and is issued under this title.

(b) The enforcement policy adopted under this section must include:

(1) a specific process for classifying violations based on:

(A) the seriousness of any pollution resulting from the violation; and

(B) any hazard to the health or safety of the public; and

(2) standards to provide guidance to commission employees on which violations may be dismissed once the permittee comes into compliance and which violations must be forwarded for enforcement.

(c) The standards adopted under Subsection (b)(2) must require a commission employee to take into account the permittee's history of previous violations in determining whether to dismiss a violation once the permittee comes into compliance or forward the violation for enforcement.

Sec. 81.067. OIL AND GAS REGULATION AND CLEANUP FUND. (a) The oil and gas regulation and cleanup fund is created as a special fund in the state treasury.

(b) The commission shall certify to the comptroller the date on which the balance in the fund equals or exceeds \$20 million. The oil-field cleanup regulatory fees on oil and gas may not be collected or required to be paid on or after the first day of the second month following the certification, except that the comptroller shall resume collecting the fees on receipt of a commission certification that the fund has fallen below \$10 million. The comptroller shall continue collecting the fees until collections are again suspended in the manner provided by this subsection.

(c) The fund consists of:

(1) proceeds from bonds and other financial security required by this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies, subject to the refund provisions of Section 91.1091, if applicable;

(2) private contributions, including contributions made under Section 89.084;

(3) expenses collected under Section 89.083;

(4) fees imposed under Section 85.2021;

(5) costs recovered under Section 91.457 or 91.459;

(6) proceeds collected under Sections 89.085 and 91.115;

(7) interest earned on the funds deposited in the fund;

(8) oil and gas waste hauler permit application fees collected under Section 29.015, Water Code;

(9) costs recovered under Section 91.113(f);

(10) hazardous oil and gas waste generation fees collected under Section 91.605;

(11) oil-field cleanup regulatory fees on oil collected under Section 81.116;

(12) oil-field cleanup regulatory fees on gas collected under Section 81.117;

(13) fees for a reissued certificate collected under Section 91.707;

(14) fees collected under Section 91.1013;

(15) fees collected under Section 89.088;

(16) fees collected under Section 91.142;

(17) fees collected under Section 91.654;

(18) costs recovered under Sections 91.656 and 91.657;

(19) fees collected under Section 81.0521;

(20) fees collected under Sections 89.024 and 89.026;

(21) legislative appropriations; and

(22) any surcharges collected under Section 81.071.

(d) All revenues and balances in the oil and gas regulation and cleanup fund created in this section are exempt from Section 403.095(b), Government Code.

Sec. 81.068. PURPOSE OF OIL AND GAS REGULATION AND CLEANUP FUND. Money in the oil and gas regulation and cleanup fund may be used by the commission or its employees or agents for any purpose related to the regulation of oil and gas development, including oil and gas monitoring and inspections, oil and gas remediation, oil and gas well plugging, public information and services related to those activities, and administrative costs and state benefits for personnel involved in those activities.

Sec. 81.069. REPORTING ON PROGRESS IN MEETING PERFORMANCE GOALS FOR THE OIL AND GAS REGULATION AND CLEANUP FUND.

(a) The commission, through the legislative appropriations request process, shall establish specific performance goals for the oil and gas regulation and cleanup fund for the next fiscal biennium, including goals for each quarter of each state fiscal year of the fiscal biennium for the number of:

(1) orphaned wells to be plugged with state-managed funds;

(2) abandoned sites to be investigated, assessed, or cleaned up with state funds; and

(3) surface locations to be remediated.

(b) The commission shall provide quarterly reports to the Legislative Budget Board and the Oil and Gas Regulation and Cleanup Fund Advisory Committee that include:

(1) the following information with respect to the period since the last report was provided as well as cumulatively:

(A) the amount of money deposited in the oil and gas regulation and cleanup fund;

(B) the amount of money spent from the fund for the purposes described by Subsection (a);

(C) the balance of the fund;

(D) the commission's progress in meeting the quarterly performance goals established under Subsection (a) and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance;

(E) the total number of permits issued by the commission;

(F) the average amount of time taken by the commission to complete the process for issuing a permit; and

(G) the average amount of time taken by the commission to rule on a contested case; and

(2) any additional information requested in writing by the Legislative Budget Board or the Oil and Gas Regulation and Cleanup Fund Advisory Committee.

(c) The commission shall submit to the legislature and the Oil and Gas Regulation and Cleanup Fund Advisory Committee and make available to the public annually a report that reviews the extent to which money provided under Section 81.067 has enabled the commission to better protect the environment through oil-field cleanup activities. The report must include:

(1) the performance goals established under Subsection (a) for that state fiscal year, the commission's progress in meeting those performance goals, and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance;

(2) the number of orphaned wells plugged with state-managed funds, by region;

(3) the number of wells orphaned, by region;

(4) the number of inactive wells not currently in compliance with commission rules, by region;

(5) the status of enforcement proceedings for all wells in violation of commission rules and the period during which the wells have been in violation, by region in which the wells are located;

(6) the number of surface locations remediated, by region;

(7) a detailed accounting of expenditures of money in the fund for oil-field cleanup activities, including expenditures for plugging of orphaned wells, investigation, assessment, and cleaning up of abandoned sites, and remediation of surface locations;

(8) the method by which the commission sets priorities by which it determines the order in which orphaned wells are plugged;

(9) a projection of the amount of money needed for the next fiscal biennium for plugging orphaned wells, investigating, assessing, and cleaning up abandoned sites, and remediating surface locations; and

(10) the number of sites successfully remediated under the voluntary cleanup program under Subchapter O, Chapter 91, by region.

Sec. 81.070. OIL AND GAS REGULATION AND CLEANUP FUND ADVISORY COMMITTEE. (a) In this section, "committee" means the Oil and Gas Regulation and Cleanup Fund Advisory Committee.

(b) The committee is composed of 10 members as follows:

(1) one member of the senate appointed by the lieutenant governor;
(2) the presiding officer of the house committee with primary jurisdiction over matters affecting energy resources;

(3) one public member appointed by the governor;

(4) one member appointed by the lieutenant governor from the academic field of geology or economics;

(5) one member appointed by the speaker of the house of representatives from the academic field of geology or economics; and

(6) the executive officer, or a person designated by the executive officer, of each of the following organizations:

(A) the Texas Oil & Gas Association;

(B) the Texas Independent Producers and Royalty Owners Association;

(C) the Panhandle Producers & Royalty Owners Association;

(D) the Permian Basin Petroleum Association; and

(E) the Texas Alliance of Energy Producers.

(c) An appointed member of the committee serves at the will of the authority that appointed the member.

(d) The committee shall:

(1) meet with the commission at the call of the chairman of the commission;
and

(2) monitor the effectiveness of the oil and gas regulation and cleanup fund, including by reviewing the reports submitted to the committee under Sections 81.069(b) and (c).

(e) The commission shall provide quarterly reports to the committee and the Legislative Budget Board that include:

(1) the following information with respect to the period since the last report was provided as well as cumulatively:

(A) the amount of money deposited in the oil and gas regulation and cleanup fund;

(B) the amount of money spent from the fund;

(C) the balance of the fund;

(D) the number of wells plugged with money from the fund;

(E) the number of sites remediated with money from the fund; and

(F) the number of wells abandoned; and

(2) any additional information or data requested in writing by the committee.

(f) The committee may:

(1) submit to the commission comments of the committee regarding proposed rules relating to the oil and gas regulation and cleanup fund; and

(2) request reports and other information from the commission as necessary to implement this section.

(g) Not later than November 15 of each even-numbered year, the committee shall report to the governor, lieutenant governor, and speaker of the house of representatives on the committee's activities. The report must include:

(1) an analysis of any problems with the administration of the oil and gas regulation and cleanup fund; and

(2) recommendations for any legislation needed to address any problems identified with the administration of the fund or otherwise needed to further the purposes of the fund.

Sec. 81.071. IMPOSITION OF SURCHARGES ON FEES. (a) Except as provided by Subsection (b), the commission by rule shall provide for the imposition of reasonable surcharges as necessary on fees imposed by the commission that are required to be deposited to the credit of the oil and gas regulation and cleanup fund in amounts sufficient to enable the commission to recover the costs of performing the functions specified by Section 81.068 from those fees and surcharges.

(b) The commission may not impose a surcharge on an oil-field cleanup regulatory fee on oil collected under Section 81.116 or an oil-field cleanup regulatory fee on gas collected under Section 81.117.

(c) The commission by rule shall establish a methodology for determining the amount of a surcharge that takes into account:

(1) the time required for regulatory work associated with the activity in connection with which the surcharge is imposed;

(2) the number of individuals or entities from which the commission's costs may be recovered;

(3) the effect of the surcharge on operators of all sizes, as measured by the number of oil or gas wells operated;

(4) the balance in the oil and gas regulation and cleanup fund; and

(5) any other factors the commission determines to be important to the fair and equitable imposition of the surcharge.

(d) The commission shall collect a surcharge on a fee at the time the fee is collected.

(e) A surcharge collected under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund.

SECTION 13. Section 81.115, Natural Resources Code, is amended to read as follows:

Sec. 81.115. ~~APPROPRIATIONS [PAYMENTS]~~ TO COMMISSION FOR OIL AND GAS REGULATION AND CLEANUP PURPOSES ~~[OIL AND GAS DIVISION]~~. Money appropriated to the ~~[oil and gas division of the]~~ commission under the General Appropriations Act for the purposes described by Section 81.068 shall be paid from the oil and gas regulation and cleanup fund, except that the legislature may supplement money appropriated from that fund with money appropriated from the General Revenue Fund.

SECTION 14. Sections 81.116(d) and (e), Natural Resources Code, are amended to read as follows:

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 81.067 ~~[91.111]~~. The exemptions and reductions set out in Sections 202.052, 202.054, 202.056, 202.057, 202.059, and 202.060, Tax Code, do not affect the fee imposed by this section.

(e) Proceeds from the fee, excluding ~~[including]~~ any penalties collected in connection with the fee, shall be deposited to the credit of the oil and gas regulation and [oil field] cleanup fund ~~[as provided by Section 91.111 of this code]~~.

SECTION 15. Sections 81.117(d) and (e), Natural Resources Code, are amended to read as follows:

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 81.067 ~~[91.111]~~. The exemptions and reductions set out in Sections 201.053, 201.057, 201.058, and 202.060, Tax Code, do not affect the fee imposed by this section.

(e) Proceeds from the fee, excluding ~~[including]~~ any penalties collected in connection with the fee, shall be deposited to the credit of the oil and gas regulation and [oil field] cleanup fund ~~[as provided by Section 91.111 of this code]~~.

SECTION 16. Section 85.2021(d), Natural Resources Code, is amended to read as follows:

(d) All fees collected under this section shall be deposited in the oil and gas regulation and [state oil field] cleanup fund.

SECTION 17. Section 89.024(d), Natural Resources Code, is amended to read as follows:

(d) An operator who files an abeyance of plugging report must pay an annual fee of \$100 for each well covered by the report. A fee collected under this section shall be deposited in the oil and gas regulation and [oil field] cleanup fund.

SECTION 18. Section 89.026(d), Natural Resources Code, is amended to read as follows:

(d) An operator who files documentation described by Subsection (a) must pay an annual fee of \$50 for each well covered by the documentation. A fee collected under this section shall be deposited in the oil and gas regulation and [oil field] cleanup fund.

SECTION 19. Section 89.048(d), Natural Resources Code, is amended to read as follows:

(d) On successful plugging of the well by the well plugger, the surface estate owner may submit documentation to the commission of the cost of the well-plugging operation. The commission shall reimburse the surface estate owner from money in the oil and gas regulation and [oil field] cleanup fund in an amount not to exceed 50 percent of the lesser of:

- (1) the documented well-plugging costs; or
- (2) the average cost incurred by the commission in the preceding 24 months in plugging similar wells located in the same general area.

SECTION 20. Section 89.083(j), Natural Resources Code, is amended to read as follows:

(j) Money collected in a suit under this section shall be deposited in the oil and gas regulation and [state oil field] cleanup fund.

SECTION 21. Section 89.085(d), Natural Resources Code, is amended to read as follows:

(d) The commission shall deposit money received from the sale of well-site equipment or hydrocarbons under this section to the credit of the oil and gas regulation and [oil field] cleanup fund. The commission shall separately account for money and credit received for each well.

SECTION 22. The heading to Section 89.086, Natural Resources Code, is amended to read as follows:

Sec. 89.086. CLAIMS AGAINST OIL AND GAS REGULATION AND [THE OIL FIELD] CLEANUP FUND.

SECTION 23. Sections 89.086(a), (h), (i), (j), and (k), Natural Resources Code, are amended to read as follows:

(a) A person with a legal or equitable ownership or security interest in well-site equipment or hydrocarbons disposed of under Section 89.085 ~~[of this code]~~ may make a claim against the oil and gas regulation and [oil field] cleanup fund unless an element of the transaction giving rise to the interest occurs after the commission forecloses its statutory lien under Section 89.083.

(h) The commission shall suspend an amount of money in the oil and gas regulation and [oil field] cleanup fund equal to the amount of the claim until the claim is finally resolved. If the provisions of Subsection (k) ~~[of this section]~~ prevent suspension of the full amount of the claim, the commission shall treat the claim as two consecutively filed claims, one in the amount of funds available for suspension and the other in the remaining amount of the claim.

(i) A claim made by or on behalf of the operator or a nonoperator of a well or a successor to the rights of the operator or nonoperator is subject to a ratable deduction from the proceeds or credit received for the well-site equipment to cover the costs incurred by the commission in removing the equipment or hydrocarbons from the well or in transporting, storing, or disposing of the equipment or hydrocarbons. A claim made by a person who is not an operator or nonoperator is subject to a ratable deduction for the costs incurred by the commission in removing the equipment from the well. If a claimant is a person who is responsible under law or commission rules for plugging the well or cleaning up pollution originating on the lease or if the claimant owes a penalty assessed by the commission or a court for a violation of a commission rule or order, the commission may recoup from or offset against a valid claim an expense incurred by the oil and gas regulation and [oil field] cleanup fund that is not otherwise reimbursed or any penalties owed. An amount recouped from, deducted from, or offset against a claim under this subsection shall be treated as an invalid portion of the claim and shall remain suspended in the oil and gas regulation and [oil field] cleanup fund in the manner provided by Subsection (j) ~~[of this section]~~.

(j) If the commission finds that a claim is valid in whole or in part, the commission shall pay the valid portion of the claim from the suspended amount in the oil and gas regulation and [oil field] cleanup fund not later than the 30th day after the date of the commission's decision. If the commission finds that a claim is invalid in whole or in part, the commission shall continue to suspend in the oil and gas regulation and [oil field] cleanup fund an amount equal to the invalid portion of the claim until the period during which the commission's decision may be appealed has

expired or, if appealed, during the period the case is under judicial review. If on appeal the district court finds the claim valid in whole or in part, the commission shall pay the valid portion of the claim from the suspended amount in the oil and gas regulation and [oil field] cleanup fund not later than 30 days after the date the court's judgment becomes unappealable. On the date the commission's decision is not subject to judicial review, the commission shall release from the suspended amount in the oil and gas regulation and [oil field] cleanup fund the amount of the claim held to be invalid.

(k) If the aggregate of claims paid and money suspended that relates to well-site equipment or hydrocarbons from a particular well equals the total of the actual proceeds and credit realized from the disposition of that equipment or those hydrocarbons, the oil and gas regulation and [oil field] cleanup fund is not liable for any subsequently filed claims that relate to the same equipment or hydrocarbons unless and until the commission releases from the suspended amount money derived from the disposition of that equipment or those hydrocarbons. If the commission releases money, then the commission shall suspend money in the amount of subsequently filed claims in the order of filing.

SECTION 24. Section 89.121(b), Natural Resources Code, is amended to read as follows:

(b) Civil penalties collected for violations of this chapter or of rules relating to plugging that are adopted under this code shall be deposited in the general revenue [state oil field cleanup] fund.

SECTION 25. Section 91.1013(c), Natural Resources Code, is amended to read as follows:

(c) Fees collected under this section shall be deposited in the oil and gas regulation and [state oil field] cleanup fund.

SECTION 26. Section 91.108, Natural Resources Code, is amended to read as follows:

Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the refund provisions of Section 91.1091, if applicable, proceeds from bonds and other financial security required pursuant to this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies shall be deposited in the oil and gas regulation and [oil field] cleanup fund and, notwithstanding Sections 81.068 [91.112] and 91.113, may be used only for actual well plugging and surface remediation.

SECTION 27. Section 91.109(a), Natural Resources Code, is amended to read as follows:

(a) A person applying for or acting under a commission permit to store, handle, treat, reclaim, or dispose of oil and gas waste may be required by the commission to maintain a performance bond or other form of financial security conditioned that the permittee will operate and close the storage, handling, treatment, reclamation, or disposal site in accordance with state law, commission rules, and the permit to operate the site. However, this section does not authorize the commission to require a bond or other form of financial security for saltwater disposal pits, emergency saltwater storage pits (including blow-down pits), collecting pits, or skimming pits provided that such pits are used in conjunction with the operation of an individual oil or gas

lease. Subject to the refund provisions of Section 91.1091 [~~of this code~~], proceeds from any bond or other form of financial security required by this section shall be placed in the oil and gas regulation and [oil field] cleanup fund. Each bond or other form of financial security shall be renewed and continued in effect until the conditions have been met or release is authorized by the commission.

SECTION 28. Sections 91.113(a) and (f), Natural Resources Code, are amended to read as follows:

(a) If oil and gas wastes or other substances or materials regulated by the commission under Section 91.101 are causing or are likely to cause the pollution of surface or subsurface water, the commission, through its employees or agents, may use money in the oil and gas regulation and [oil field] cleanup fund to conduct a site investigation or environmental assessment or control or clean up the oil and gas wastes or other substances or materials if:

(1) the responsible person has failed or refused to control or clean up the oil and gas wastes or other substances or materials after notice and opportunity for hearing;

(2) the responsible person is unknown, cannot be found, or has no assets with which to control or clean up the oil and gas wastes or other substances or materials; or

(3) the oil and gas wastes or other substances or materials are causing the pollution of surface or subsurface water.

(f) If the commission conducts a site investigation or environmental assessment or controls or cleans up oil and gas wastes or other substances or materials under this section, the commission may recover all costs incurred by the commission from any person who was required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or materials. The commission by order may require the person to reimburse the commission for those costs or may request the attorney general to file suit against the person to recover those costs. At the request of the commission, the attorney general may file suit to enforce an order issued by the commission under this subsection. A suit under this subsection may be filed in any court of competent jurisdiction in Travis County. Costs recovered under this subsection shall be deposited to the credit of the oil and gas regulation and [oil field] cleanup fund.

SECTION 29. Section 91.264(c), Natural Resources Code, is amended to read as follows:

(c) A penalty collected under this section shall be deposited to the credit of the general revenue [oil field cleanup] fund [account].

SECTION 30. Section 91.457(b), Natural Resources Code, is amended to read as follows:

(b) If a person ordered to close a saltwater disposal pit under Subsection (a) [~~of this section~~] fails or refuses to close the pit in compliance with the commission's order and rules, the commission may close the pit using money from the oil and gas regulation and [oil field] cleanup fund and may direct the attorney general to file suits in any courts of competent jurisdiction in Travis County to recover applicable penalties and the costs incurred by the commission in closing the saltwater disposal pit.

SECTION 31. Section 91.459(c), Natural Resources Code, is amended to read as follows:

(c) Any ~~[penalties or]~~ costs recovered by the attorney general under this subchapter shall be deposited in the oil and gas regulation and [oil field] cleanup fund.

SECTION 32. Section 91.605(e), Natural Resources Code, is amended to read as follows:

(e) The fees collected under this section shall be deposited in the oil and gas regulation and [oil field] cleanup fund.

SECTION 33. Section 91.654(e), Natural Resources Code, is amended to read as follows:

(e) Fees collected under this section shall be deposited to the credit of the oil and gas regulation and [oil field] cleanup fund [under Section 91.111].

SECTION 34. Section 91.707(b), Natural Resources Code, is amended to read as follows:

(b) Fees collected under this section shall be deposited to the credit of the oil and gas regulation and [oil field] cleanup fund.

SECTION 35. Subchapter B, Chapter 102, Natural Resources Code, is amended by adding Sections 102.0125 and 102.0165 to read as follows:

Sec. 102.0125. WITHDRAWAL AND REILING OF APPLICATION. (a) The commission by rule shall:

(1) provide procedures requiring an interested owner who applies to the commission for the pooling of mineral interests to give notice to the commission before withdrawing the application if a hearing on the application has been scheduled; and

(2) require an applicant who refiles an application that was withdrawn without proper notice as required by rules adopted under Subdivision (1) to pay a filing fee that exceeds the amount of any fee required for filing the initial application.

(b) Rules adopted under Subsection (a)(1) must specify the deadline for giving notice of withdrawal of the application before the hearing is held.

Sec. 102.0165. LOCATION OF HEARING. (a) At the request of an interested party, the commission may hold the hearing on the application in person or by telephone at a location in the vicinity of the proposed unit.

(b) The commission may contract with another state agency to hold hearings on applications for pooling of interests into a unit under the provisions of this chapter in person or by telephone at field offices of that agency.

SECTION 36. Section 117.012(a), Natural Resources Code, is amended to read as follows:

(a) The commission shall adopt rules that include:

(1) safety standards for and practices applicable to the intrastate transportation of hazardous liquids or carbon dioxide by pipeline and intrastate hazardous liquid or carbon dioxide pipeline facilities; and

(2) [~~including~~] safety standards related to the prevention of damage to interstate and intrastate hazardous liquid or carbon dioxide pipeline facilities [~~such a facility~~] resulting from the movement of earth by a person in the vicinity of such a [~~the~~] facility, other than movement by tillage that does not exceed a depth of 16 inches.

SECTION 37. Section 211.033(q), Natural Resources Code, is amended to read as follows:

(q) A penalty collected under this section shall be remitted to the comptroller for [~~the~~] deposit to the credit of the general revenue [~~oil field cleanup~~] fund.

SECTION 38. Section 52.092(c), Election Code, is amended to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

- (1) governor;
- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) commissioner of the General Land Office;
- (6) commissioner of agriculture;
- (7) chairman of the Texas Oil and Gas Commission;
- (8) railroad commissioner of the Texas Oil and Gas Commission;
- (9) [~~(8)~~] chief justice, supreme court;
- (10) [~~(9)~~] justice, supreme court;
- (11) [~~(10)~~] presiding judge, court of criminal appeals;
- (12) [~~(11)~~] judge, court of criminal appeals.

SECTION 39. Section 756.126, Health and Safety Code, is amended to read as follows:

Sec. 756.126. SAFETY STANDARDS AND BEST PRACTICES. The Texas Oil and Gas [~~Railroad~~] Commission [~~of Texas~~] shall adopt and enforce safety standards and best practices, including those described by 49 U.S.C. Section 6105 et seq., relating to the prevention of damage by a person to a facility, including an interstate or intrastate pipeline facility, under the jurisdiction of the commission.

SECTION 40. Section 121.201(a), Utilities Code, is amended to read as follows:

(a) The railroad commission may:

(1) by rule prescribe or adopt safety standards for the transportation of gas and for gas pipeline facilities, including safety standards related to the prevention of damage to an interstate or intrastate gas pipeline [~~such a~~] facility resulting from the movement of earth by a person in the vicinity of the facility, other than movement by tillage that does not exceed a depth of 16 inches;

(2) by rule require an operator that does not file operator organization information under Section 91.142, Natural Resources Code, to provide the information to the commission in the form of an application;

(3) by rule require record maintenance and reports;

(4) inspect records and facilities to determine compliance with safety standards prescribed or adopted under Subdivision (1);

(5) make certifications and reports from time to time;

(6) seek designation by the United States secretary of transportation as an agent to conduct safety inspections of interstate gas pipeline facilities located in this state; and

(7) by rule take any other requisite action in accordance with 49 U.S.C. Section 60101 et seq., or a succeeding law.

SECTION 41. Section 29.015, Water Code, is amended to read as follows:

Sec. 29.015. APPLICATION FEE. With each application for issuance, renewal, or material amendment of a permit, the applicant shall submit to the railroad commission a nonrefundable fee of \$100. Fees collected under this section shall be deposited in the oil and gas regulation and ~~[oil field]~~ cleanup fund.

SECTION 42. The following provisions of the Natural Resources Code are repealed:

- (1) Section 91.111;
- (2) Section 91.112;
- (3) Section 91.1135; and
- (4) Subchapter I, Chapter 113.

SECTION 43. On the effective date of this Act:

(1) the oil-field cleanup fund and the alternative fuels research and education fund are abolished;

(2) any money remaining in the oil-field cleanup fund is transferred to the oil and gas regulation and cleanup fund;

(3) any money remaining in the alternative fuels research and education fund is transferred to the undedicated portion of the general revenue fund;

(4) any claim against the oil-field cleanup fund is transferred to the oil and gas regulation and cleanup fund;

(5) any claim against the alternative fuels research and education fund is transferred to the undedicated portion of the general revenue fund;

(6) any amount required to be deposited to the credit of the oil-field cleanup fund shall be deposited to the credit of the oil and gas regulation and cleanup fund; and

(7) any amount required to be deposited to the credit of the alternative fuels research and education fund shall be deposited to the credit of the undedicated portion of the general revenue fund.

SECTION 44. (a) Effective January 1, 2012:

(1) the name of the Railroad Commission of Texas is changed to the Texas Oil and Gas Commission, and all powers, duties, rights, and obligations of the Railroad Commission of Texas are the powers, duties, rights, and obligations of the Texas Oil and Gas Commission;

(2) a member of the Railroad Commission of Texas is a member of the Texas Oil and Gas Commission;

(3) the chairman of the Railroad Commission of Texas is the chairman of the Texas Oil and Gas Commission; and

(4) any appropriation to the Railroad Commission of Texas is an appropriation to the Texas Oil and Gas Commission.

(b) Effective January 1, 2012:

(1) a reference in law to the Railroad Commission of Texas is a reference to the Texas Oil and Gas Commission; and

(2) a reference in law to a railroad commissioner or a member of the Railroad Commission of Texas is a reference to a member of the Texas Oil and Gas Commission.

(c) The Texas Oil and Gas Commission is the successor to the Railroad Commission of Texas in all respects. All personnel, equipment, data, documents, facilities, contracts, items, other property, rules, decisions, and proceedings of or involving the Railroad Commission of Texas are unaffected by the change in the name of the agency.

(d) The Railroad Commission of Texas shall adopt a timetable for phasing in the change of the agency's name so as to minimize the fiscal impact of the name change. Until January 1, 2012, to allow for phasing in the change of the agency's name and in accordance with the timetable established as required by this section, the agency may perform any act authorized by law for the Railroad Commission of Texas as the Railroad Commission of Texas or as the Texas Oil and Gas Commission. Any act of the Railroad Commission of Texas acting as the Texas Oil and Gas Commission on or after the effective date of this Act and before January 1, 2012, is an act of the Railroad Commission of Texas.

(e) The change in law made by this Act does not affect the election of the chairman of the Texas Oil and Gas Commission before the general election in 2012.

(f) The office of chairman of the Texas Oil and Gas Commission exists for purposes of the primary and general election in 2012.

SECTION 45. This Act takes effect September 1, 2011.

Floor Amendment No. 1

Amend **CSSB 655** (house committee printing) in SECTION 7 of the bill, in added Section 81.010046, Natural Resources Code, as follows:

(1) Between "office of commissioner" and "at" (page 4, line 20), insert "or chairman of the commission".

(2) Strike "of commissioner." (page 4, line 23) and substitute "then held by the person.".

Floor Amendment No. 2

Amend **CSSB 655** (house committee printing) in SECTION 12 of the bill, in added Section 81.065(d), Natural Resources Code (page 8, line 8), by striking "described by Section 81.058 or filed under Section" and substituting "under Section 81.059 or".

Floor Amendment No. 7

Amend **CSSB 655** (house committee printing) as follows:

(1) In SECTION 7 of the bill, in added Section 81.010045(a), Natural Resources Code (page 3, lines 16 and 17), strike "political contribution" has the meaning" and substitute "political committee" and "political contribution" have the meanings".

(2) In SECTION 7 of the bill, in added Section 81.010045, Natural Resources Code (page 4, between lines 15 and 16), insert the following:

(e) A commissioner may not knowingly accept a political contribution given or offered with the intention that it be used in connection with a campaign for the office of commissioner from:

(1) a person who in the 45-day period preceding the date the contribution was offered or given had business before the commissioners; or

(2) a political committee affiliated with a person described by Subdivision

(1).

Floor Amendment No. 8

Amend Floor Amendment No. 7 by Gallego to **CSSB 655** on page 1 by striking lines 10-17 and substituting the following:

In SECTION 7 of the bill, at the end of added Section 81.010045, Natural Resources Code (page 4, between lines 15 and 16), insert the following:

(e) A commissioner may not knowingly accept a political contribution from a party, or a political committee affiliated with the party, in a contested case before the commission during the period from the date notice of the hearing in the contested case is given until the thirtieth day after the date the decision in the contested case is rendered.

Floor Amendment No. 9

Amend **CSSB 655** (house committee printing), as follows:

(1) On page 3, line 26, strike "general" and insert "primary".

(2) On page 4, line 8, strike "general" and insert "primary".

Floor Amendment No. 10

Amend **CSSB 655** (house committee printing) in SECTION 10 of the bill, in amended Section 81.0531(d), Natural Resources Code, by striking Subdivisions (5) and (6) of the subsection (page 6, lines 19-22) and substituting the following:

(5) the demonstrated good faith of the person charged; ~~and~~

(6) the economic benefit gained through the violation; and

(7) any other factor the commission considers relevant.

Floor Amendment No. 11

Amend Floor Amendment No. 10 (p. 88 of house prefiled amendments to **CSSB 655**) as follows:

On line 7, strike "the" and substitute "a willful".

Floor Amendment No. 17

Amend **CSSB 655** by adding the following appropriately numbered section to read as follows:

(1) SECTION ____ . Section 81.0593. ELECTRONIC POSTING OF TAX EXEMPTION, TAX RATE REDUCTION OR TAX CREDIT. The commission shall post in a prominent place on the agency's website each certification letter issued by the commission that may be used for the purpose of qualifying or applying for a tax exemption, tax rate reduction, or tax credit with the Comptroller of Public Accounts. The commission shall post the certification letters issued prior to the effective date of this Act on the commission's website not later than August 31, 2012.

Floor Amendment No. 18

Amend Amendment No. 17 by Gallego to **CSSB 655** (house committee printing) by striking the text of the amendment and substituting the following:

Amend **CSSB 655** (house committee printing) as follows:

(1) In the recital to SECTION 12 of the bill (page 7, line 10), strike "and 81.071" and substitute "81.071, and 81.072".

(2) In SECTION 12 of the bill, following added Section 81.071, Natural Resources Code (page 17, between lines 18 and 19), insert the following:

Sec. 81.072. ELECTRONIC POSTING OF CERTIFICATES REGARDING SEVERANCE TAX EXEMPTIONS, RATE REDUCTIONS, OR CREDITS. The commission shall post in a prominent place on any publicly accessible Internet website maintained by the commission each certificate issued by the commission that may be used for the purpose of qualifying, or applying to the comptroller, for a severance tax exemption, rate reduction, or credit.

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

SECTION _____. Not later than August 31, 2012, the Railroad Commission of Texas or the Texas Oil and Gas Commission shall post in the manner required by Section 81.072, Natural Resources Code, as added by this Act, the certificates described by that section that were issued by the Railroad Commission of Texas before the effective date of this Act.

Floor Amendment No. 20

Amend **CSSB 655** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter D, Chapter 91, Natural Resources Code, is amended by adding Section 91.118 to read as follows:

Sec. 91.118. PERMITS REQUIRED FOR LAND APPLICATION OF CERTAIN WASTE. (a) The commission by rule shall regulate through the issuance of permits the use of land application for the treatment and disposal of oil field fluids or oil and gas wastes.

(b) Rules adopted under this section:

(1) must consider the amount of land available to the applicant for the land application of fluids or wastes and any applicable federal or state law if the rules limit the number of permits that may be issued to an applicant;

(2) may not prohibit the issuance of a permit to an applicant for the land application of fluids or wastes on a tract based on its proximity to another tract for which a permit authorizing the land application of fluids or wastes has been issued if the surface ownership of the tracts is different; and

(3) must permit the land application of fluids or wastes at the same location annually if:

(A) the fluids or wastes are generated by only one operator and are derived from:

(i) the same lease, if the fluids or wastes are derived from one or more oil wells; or

(ii) the same general area or field, if the fluids or wastes are derived from one or more gas wells; and

(B) the water base drilling fluid and cuttings are:

(i) from not more than five wells, if the volume of the water base drilling fluid and cuttings does not exceed 30,000 barrels; or

(ii) from one well, if the volume of the water base drilling fluid and cuttings exceeds 30,000 barrels.

(b) Not later than December 1, 2011, the Railroad Commission of Texas shall adopt rules as required by Section 91.118, Natural Resources Code, as added by this section.

(c) This section takes effect September 1, 2011.

Floor Amendment No. 21

Amend **CSSB 655** by adding the following appropriately numbered section and renumbering subsequent sections accordingly:

SECTION _____. Subchapter E, Chapter 91, Natural Resources Code, is amended by adding Section 91.1421 to read as follows:

Sec. 91.1421. ANNUAL REPORT OF GROUNDWATER USE.

(a) In this section, "groundwater" has the meaning assigned by Section 36.001, Water Code.

(b) The Commission shall collect information on the annual use of groundwater used in the exploration and development of oil and gas resources on a regional and statewide basis.

(c) In collecting the information, the Commission shall allow for estimates or ranges of use to ease the collection of information where actual water use information is not available.

(d) The Commission may collect information from any source to aid in its collection including actual industries or groundwater conservation districts.

(e) The Commission shall share this information with the Texas Water Development Board for use in the statewide water planning process.

Floor Amendment No. 22

Amend Floor Amendment No. 21 by Farrar (page 104 of the prefiled amendment packet) to **CSSB 655**, on page 1 of the amendment by striking lines 10-21, and substituting the following:

(b) The commission shall require an applicant for a permit for a well for oil or gas exploration or development to include an estimated total amount of groundwater to be used to operate the well annually.

(c) Upon the approval of a permit for a well for oil or gas exploration or development, the commission shall notify the Texas Water Development Board and the groundwater conservation district in which the well is located, if the well is located in a groundwater conservation district. The notice must include:

(1) the location of the well; and

(2) the estimated amount of water to be used by the well.

(d) The commission shall adopt rules to implement this section.

Floor Amendment No. 23

Amend **CSSB 655** (house committee report) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 85, Natural Resources Code, is amended by adding Section 85.066 to read as follows:

Sec. 85.066. PROCEDURE FOR OBTAINING EXCEPTION FOR CERTAIN GAS WELLS FROM COMMISSION WELL SPACING REQUIREMENTS. (a) This section applies only to a gas well located in a county that is located wholly or partly above a hydrocarbon-producing geological formation that underlies all or part of two counties:

(1) that are adjacent to one another; and

(2) each of which has a population of more than 1.8 million.

(b) This section shall be construed broadly to accomplish its purposes.

(c) An applicant for an exception to a well spacing requirement adopted by the commission by rule must provide a notice in plain language to each person who would be affected by the exception to the rule that:

(1) identifies by means of a drawing prepared by a surveyor the path of the proposed well bore and explains the method that will be used to produce gas from the area surrounding the well bore, including the area adjacent to the property on which the well is located, if applicable;

(2) explains that the person receiving the notice has the right to object to the application and request a hearing on the application and outlines the procedure for the hearing, including the burden of proof and the standard for granting the exception; and

(3) explains that not objecting to the applicant's request may result in:

(A) the depletion of gas from the property of the person receiving the notice;

(B) a loss of compensation for the person's gas; and

(C) the transfer of the person's gas to the operator of the well or other mineral owners.

(d) The commission must hold a hearing on the application before granting the exception. The hearing must be held in a county described by Subsection (a).

(e) The applicant must present in the hearing evidence:

(1) that the exception is necessary to most efficiently produce the gas and is not merely for the convenience of the operator of the well;

(2) of the absence of feasible alternatives to the exception;

(3) that every effort was made to notify each person affected by the exception; and

(4) of the amount of gas that would be depleted from property owned by persons affected by the exception if the exception were granted, the amount of compensation those persons would likely receive if their interests in the gas were pooled, and the persons to whom the gas would be transferred if the exception were granted.

(f) the applicant has the burden of proof on each issue in the hearing.

SECTION _____. The change in law made by this Act applies only to the application for an exception to a well spacing requirement adopted by the Railroad Commission of Texas by rule that is filed with the commission on or after the effective date of this Act. An application filed with the commission before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Floor Amendment No. 24

Amend Amendment No. 23 by Anchia to **CSSB 655** (page 96, prefiled amendment packet) by striking added Sections 85.066(d), (e), and (f), Natural Resources Code, and substituting the following:

(d) Any hearing on the application held by the commission before granting the exemption must be held in a county described by Subsection (a).

Floor Amendment No. 25

Amend **CSSB 655** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 81.051(a), Natural Resources Code, is amended to read as follows:

(a) The commission has jurisdiction over all:

(1) common carrier pipelines defined in Section 111.002 of this code in Texas;

(2) saltwater pipelines in Texas;

(3) oil and gas wells in Texas;

(4) ~~(3)~~ persons owning or operating pipelines in Texas, including saltwater pipelines; and

(5) ~~(4)~~ persons owning or engaged in drilling or operating oil or gas wells in Texas.

Floor Amendment No. 26

Amend Floor Amendment No. 25 by Anchia to **CSSB 655** (page 94 of the prefiled amendments packet) by striking lines 6-14 and substituting:

(a) The commission has jurisdiction over all:

(1) common carrier pipelines defined in Section 111.002 of this code in Texas;

(2) pipelines used to transport saltwater oil and gas waste, as defined by Section 91.1011, in Texas;

(3) oil and gas wells in Texas;

(4) ~~(3)~~ persons owning or operating pipelines in Texas, including pipelines used to transport saltwater oil and gas waste, as defined by Section 91.1011; and

(5) ~~(4)~~ persons owning or engaged in drilling or operating oil or gas wells in Texas.

Floor Amendment No. 27

Amend Floor Amendment No. 25 by Anchia to **CSSB 655** (page 94 of the prefiled amendments packet) by striking lines 6-14 and substituting:

- (a) The commission has jurisdiction over all:
- (1) common carrier pipelines defined in Section 111.002 of this code in Texas;
 - (2) pipelines used to transport saltwater oil and gas waste, as defined by Section 91.1011, in Texas;
 - (3) oil and gas wells in Texas;
 - (4) ~~(3)~~ persons owning or operating pipelines in Texas, including pipelines used to transport saltwater oil and gas waste, as defined by Section 91.1011; and
 - (5) ~~(4)~~ persons owning or engaged in drilling or operating oil or gas wells in Texas.

Floor Amendment No. 28

Amend **CSSB 655** (house committee report) by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

Section _____. Chapter 91, Natural Resources Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. SALTWATER PIPELINES

Sec. 91.901. DEFINITIONS. In this subchapter:

(1) "Saltwater pipeline facility" means a pipeline facility that conducts water containing salt and other substances produced during drilling or operating natural gas and other types of wells to a disposal or recycling facility.

(2) "Saltwater pipeline operator" means a person who owns, installs, manages, operates, leases, or controls a saltwater pipeline facility.

Sec. 91.902 AUTHORITY TO LAY AND MAINTAIN SALTWATER PIPELINES ON PUBLIC ROAD. A saltwater pipeline operator may install, maintain, and operate a saltwater pipeline facility through, under, along, across, or over a public road only if:

(1) the saltwater pipeline facility complies with applicable:

(A) saltwater safety regulations adopted by the commission relating to saltwater pipeline facilities;

(B) federal regulations relating to saltwater pipeline facilities; and

(C) rules adopted by the commission and the Texas Transportation Commission relating to the horizontal or vertical placement of the pipeline facility; and

(2) the saltwater pipeline operator ensures that the public road and associated facilities are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline facility is complete.

Sec. 91.903. RELOCATION OF SALTWATER PIPELINE FACILITY FOR CERTAIN PURPOSES. (a) The Texas Transportation Commission may require a saltwater pipeline operator to relocate a saltwater pipeline facility at a cost of the saltwater pipeline operator to accommodate construction or expansion of a public road unless the saltwater pipeline operator has a property interest in the land occupied by the saltwater pipeline facility to be relocated.

(b) Upon entering into any construction contract requiring the relocation of a saltwater pipeline facility, the Texas Transportation Commission shall give to the saltwater pipeline operator 30 days' written notice of the requirement. The saltwater

pipeline operator shall not be required to move the saltwater pipeline facility prior to the expiration of the 30 day period. The notice must identify the saltwater pipeline facility to be relocated and indicate the approximate location on the new right-of-way where the saltwater pipeline operator may place the saltwater pipeline facility.

Sec. 91.904. CONSTRUCTION OF SUBCHAPTER. This subchapter shall not be construed to:

(1) limit the authority of a saltwater pipeline facility to use a public right-of-way under any other law; or

(2) require a saltwater pipeline operator to utilize a public right-of-way in lieu of an alternative route selected by the operator; or

(3) affect the authority of a municipality to:

(A) regulate the use of a public right-of-way by a saltwater pipeline operator under any other law;

(B) require payment of any applicable charge under Subsection 182.025 and 182.036, Tax Code.

Sec. 91.906. RULES. The commission shall adopt rules to implement this subchapter.

Floor Amendment No. 29

Amend **CSSB 655** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle B, Title 3, Natural Resources Code, is amended by adding Chapter 93 to read as follows:

CHAPTER 93. REGULATION OF HYDRAULIC FRACTURING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 93.001. DEFINITIONS. In this chapter, unless the context otherwise requires:

(1) "Additive" means any substance or combination of substances found in a hydraulic fracturing fluid, including a proppant, that is added to a base fluid in the context of a hydraulic fracturing treatment.

(2) "Base fluid" means the base fluid type, such as water or nitrogen foam, used in a particular hydraulic fracturing treatment.

(3) "Chemical Abstracts Service" or "CAS" means the chemical registry that is the authoritative collection of disclosed chemical substance information.

(4) "Chemical constituent" means a discrete chemical with its own specific name or identity, such as a CAS number, that is contained in an additive.

(5) "Commission" means the Texas Oil and Gas Commission.

(6) "Hydraulic fracturing fluid" means the fluid used to perform a particular hydraulic fracturing treatment and includes the applicable base fluid and all additives.

(7) "Hydraulic fracturing treatment" means the stimulation of a well by the forceful application of hydraulic fracturing fluid into the relevant geological formation for the purpose of creating fractures in the formation in order to facilitate production of hydrocarbons.

(8) "Operator" means the person authorized to conduct operations on a well.

(9) "Proppant" means sand or another natural or man-made inert material that is used in a hydraulic fracturing treatment to prevent artificially created or enhanced fractures from closing once the treatment is completed.

(10) "Trade secret" means any confidential formula, pattern, process, device, information, or compilation of information that is used in a person's business and that gives the person an opportunity to obtain an advantage over competitors that do not know or use it.

(11) "Well" means a hydrocarbon production well.

(12) "Well completion report" means the report an operator is required to file with the commission following the completion or recompletion of a well, if applicable.

Sec. 93.002. RULES. The commission shall adopt any rules necessary to carry out its powers and duties under this chapter.

Sec. 93.003. REPORT. Not later than January 1 of each year, the commission shall submit to the legislature a report concerning the effects of hydraulic fracturing treatments on environmental quality, including water quality. The report must address:

(1) the effects of hydraulic fracturing treatments on the quality of the water in aquifers;

(2) the total amount and types of chemicals used in hydraulic fracturing treatments;

(3) the geographic location of the wells on which hydraulic fracturing treatments are performed;

(4) the rates of asthma, including childhood asthma, in areas in which wells on which hydraulic fracturing treatments are performed and wastewater disposal sites associated with those wells are located;

(5) the routes used to transport to an injection site wastewater associated with wells on which hydraulic fracturing treatments are performed and the amount of any wastewater spilled along those routes; and

(6) the presence of any radioactivity or radioactive elements in wastewater associated with wells on which hydraulic fracturing treatments are performed.

[Sections 93.004-93.050 reserved for expansion]

SUBCHAPTER B. DISCLOSURE OF COMPOSITION OF HYDRAULIC FRACTURING FLUIDS

Sec. 93.051. INFORMATION SUBMITTED CONSIDERED PUBLIC INFORMATION; POSTING ON INTERNET WEBSITE. Notwithstanding any other law, unless the information is entitled to be withheld as a trade secret under Section 93.052(b) or (c)(4) or 93.053(c), information submitted to the commission under Section 93.052 or 93.053 is public information, and the commission shall post the information on a publicly accessible Internet website.

Sec. 93.052. SERVICE COMPANY DISCLOSURES. (a) A person performing hydraulic fracturing treatments in this state shall disclose to the commission and maintain an updated master list of:

(1) all base fluids to be used by the person during any hydraulic fracturing treatment in this state;

(2) all additives to be used by the person during any hydraulic fracturing treatment in this state; and

(3) all chemical constituents to be used by the person in any hydraulic fracturing treatment in this state and their associated CAS numbers.

(b) Notwithstanding Subsection (a)(3), if the specific identity of any chemical constituent to be used in any hydraulic fracturing treatment in this state is entitled to be withheld as a trade secret pursuant to the criteria provided by 42 U.S.C. Section 11042(a)(2) and Section 93.055 of this chapter, the commission shall protect and hold confidential the identity of the chemical constituent and its associated CAS number. To qualify for trade secret protection, the person performing the hydraulic fracturing treatment must submit to the commission on an approved form a formal claim of entitlement to that protection in the manner required by Section 93.055.

(c) A person performing hydraulic fracturing treatments in this state shall provide to the operator of each well for which the person performs a hydraulic fracturing treatment:

(1) the maximum pump pressure measured at the surface and the type and volume of base fluid used in each stage of the hydraulic fracturing treatment;

(2) a list of all additives used in the hydraulic fracturing fluid, specified by general type, such as acid, biocide, breaker, corrosion inhibitor, crosslinker, demulsifier, friction reducer, gel, iron control, oxygen scavenger, pH adjusting agent, proppant, scale inhibitor, and surfactant;

(3) for each additive type listed under Subdivision (2), the specific name of the additive used and the actual rate or concentration of each additive, expressed as pounds per thousand gallons or gallons per thousand gallons and expressed as a percentage by volume of the total hydraulic fracturing fluid used;

(4) a list of all the chemical constituents used in the hydraulic fracturing fluid and their associated CAS numbers, except to the extent that the specific identity of any chemical constituent is entitled to be withheld as a trade secret as provided by Subsection (b); and

(5) for each chemical constituent identified under Subdivision (4), the actual rate or concentration of each chemical, expressed as pounds per thousand gallons or gallons per thousand gallons and expressed as a percentage by volume of the total hydraulic fracturing fluid used.

(d) Subsections (b) and (c)(4) do not authorize a person to withhold information that federal or state law, including this section, requires to be provided to any health care professional who needs the information for diagnostic or treatment purposes. A person performing a hydraulic fracturing treatment shall provide directly to a health care professional, immediately on request, all information required by the health care professional, including the percent by volume of the chemical constituents of the hydraulic fracturing fluid and their associated CAS numbers. In a case that is not a medical emergency, the health care professional must provide the person performing the hydraulic fracturing treatment a written statement of need for the information before the person is entitled to receive the information. In a medical emergency, the health care professional must provide the person performing the hydraulic fracturing treatment a written statement of need for the information as soon as circumstances permit.

(e) A health care professional to whom information is disclosed under Subsection (d) shall hold the information confidential, except that the health care professional may, for diagnostic or treatment purposes, disclose information provided under that subsection to another health care professional, a laboratory, or a third-party testing firm. A health care professional, laboratory, or third-party testing firm to which information is disclosed by another health care professional under this subsection shall hold the information confidential.

Sec. 93.053. OPERATOR DISCLOSURES. (a) Following the completion of a hydraulic fracturing treatment on a well, the operator shall include in the well completion report, on a form approved by the commission:

(1) the maximum pump pressure measured at the surface and the type and volume of base fluid used in each stage of the hydraulic fracturing treatment;

(2) a list of all additives used in the hydraulic fracturing treatment, specified by general type, such as acid, biocide, breaker, corrosion inhibitor, crosslinker, demulsifier, friction reducer, gel, iron control, oxygen scavenger, pH adjusting agent, proppant, scale inhibitor, and surfactant;

(3) for each additive type listed under Subdivision (2), the specific name of the additive used and the actual rate or concentration of each additive, expressed as pounds per thousand gallons or gallons per thousand gallons and expressed as a percentage by volume of the total hydraulic fracturing fluid used;

(4) the information provided under Sections 93.052(c)(4) and (5) to the operator by the person who performed the hydraulic fracturing treatment; and

(5) if the operator caused any additives to be used during the hydraulic fracturing treatment that are not required to be disclosed under Section 93.052(c) to the operator by the person who performed the hydraulic fracturing treatment:

(A) a list of the additives used; and

(B) for each additive listed, the chemical constituents of the additive and their associated CAS numbers and the actual rate or concentration of each additive or chemical, expressed in the manner provided by Section 93.052(c).

(b) The operator may supply field service company tickets, excluding pricing information, and reports regarding the hydraulic fracturing treatment, as used in the normal course of business, to satisfy some or all of the requirements of Subsection (a).

(c) Notwithstanding Subsection (a)(5), if the specific identity of a chemical constituent contained in an additive is entitled to be withheld as a trade secret pursuant to the criteria provided by 42 U.S.C. Section 11042(a)(2) and Section 93.055 of this chapter, the commission shall protect and hold confidential the identity of the chemical constituent and its associated CAS number. To qualify for trade secret protection, the operator must submit to the commission on an approved form a formal claim of entitlement to that protection in the manner required by Section 93.055.

(d) Subsection (c) does not authorize an operator to withhold information that federal or state law, including this section, requires to be provided to any health care professional who needs the information for diagnostic or treatment purposes. An operator shall provide directly to a health care professional, immediately on request, all information required by the health care professional, including the percent by volume of the chemical constituents of the hydraulic fracturing fluid and their associated CAS numbers. In a case that is not a medical emergency, the health care

professional must provide the operator a written statement of need for the information before the person is entitled to receive the information. In a medical emergency, the health care professional must provide the operator a written statement of need for the information as soon as circumstances permit.

(e) A health care professional to whom information is disclosed under Subsection (d) shall hold the information confidential, except that the health care professional may, for diagnostic or treatment purposes, disclose information provided under that subsection to another health care professional, a laboratory, or a third-party testing firm. A health care professional, laboratory, or third-party testing firm to which information is disclosed by another health care professional under this subsection shall hold the information confidential.

Sec. 93.054. USE OF SERVICES OF NONCOMPLYING SERVICE COMPANY PROHIBITED. An operator may not use the services of another person in performing a hydraulic fracturing treatment in this state unless the other person is in compliance with the requirements of Section 93.052.

Sec. 93.055. TRADE SECRET PROTECTION. (a) A claim of entitlement to trade secret protection made under Section 93.052(b) or (c)(4) or 93.053(c) must include substantiating facts in the form of the information required by 40 C.F.R. Section 350.7(a). If requested by the trade secret claimant, the commission shall treat any such substantiating facts as confidential and may not disclose them to any third party or the public for any purpose. Until a final determination that the information is not entitled to trade secret protection is made under this section, the commission shall treat the information implicated by the claim of trade secret entitlement as a confidential trade secret, and the information is not subject to disclosure under Chapter 552, Government Code.

(b) The commission shall determine a claim of entitlement to trade secret protection made under Section 93.052(b) or (c)(4) or 93.053(c) to be sufficient if the information set forth in the claim supports all the conclusions set forth in 40 C.F.R. Section 350.13(a) and the supporting information is true. In making a determination as to a claim, the commission may require the trade secret claimant to submit additional supplemental information if the information is necessary for the commission to make its determination under this section. If requested by the trade secret claimant, the commission shall treat any supplemental information provided as confidential and may not disclose the information to any third party or the public for any purpose.

(c) If the commission determines a claim of entitlement to trade secret protection to be insufficient, the commission shall notify the trade secret claimant in writing of the determination by certified mail. Not later than the 15th day after the date the trade secret claimant receives notice of the determination, the claimant may request another review of the claim. The trade secret claimant must show good cause for the additional review. What constitutes good cause for purposes of this subsection is solely within the reasonable discretion of the commission and may include the availability of new supporting information or a good faith error or omission on the part of the trade secret claimant in the original claim. Not later than the 30th day after the date the commission receives the request, the commission shall provide written notice to the trade secret claimant of the commission's acceptance or rejection of the

request. If a trade secret claimant makes a request for review under this subsection, the commission shall treat the information implicated by the claim of trade secret entitlement as a confidential trade secret until the commission makes a determination with regard to the review request. If the commission rejects the review request, the commission shall continue to treat the information as a confidential trade secret until the earlier of the 30th day after the date the trade secret claimant receives notice that the commission has rejected the review request or the date the claimant withdraws the disclosure under Subsection (e).

(d) Not later than the 30th day after the date the trade secret claimant receives notice from the commission that the commission has rejected the claim of entitlement to trade secret protection, the claimant may appeal the determination by filing a petition in a district court of Travis County. If a trade secret claimant files an appeal under this subsection, the commission shall treat the information implicated by the claim of trade secret entitlement as a confidential trade secret until the appeal is resolved. If the resolution of the appeal affirms the commission's determination of the insufficiency of the claim, the commission shall continue to treat the information as a confidential trade secret until the earlier of the 30th day after the date the trade secret claimant receives notice that the appeal has been resolved or the date the claimant withdraws the disclosure under Subsection (e).

(e) Not later than the 30th day after the date the trade secret claimant receives notification under Subsection (c) that the commission has rejected the claim of entitlement to trade secret protection or the date a final judgment affirming the commission's determination of the insufficiency of the claim is entered under Subsection (d), as applicable, and only to the extent that the relevant chemical constituent has not been used by or for the trade secret claimant in any hydraulic fracturing treatment in this state, the trade secret claimant may formally withdraw the disclosure of a chemical constituent by notifying the commission of its intent to withdraw the disclosure. If the trade secret claimant withdraws the disclosure of a chemical constituent, the commission shall protect and hold confidential the identity of the chemical constituent and any corresponding CAS number, and the information is not subject to disclosure under Chapter 552, Government Code. After the withdrawal, the chemical constituent may not be used by or for the trade secret claimant in any hydraulic fracturing treatment in this state unless the trade secret claimant satisfies the requirements of this chapter relating to the disclosure of information regarding the chemical constituent.

(f) Notwithstanding any other provision of this section, the commission may:

(1) disclose information otherwise subject to trade secret protection under this section to a third-party testing firm in connection with the investigation of a claim of contamination of surface water or groundwater if the firm agrees in writing to keep the information confidential; and

(2) use the results of a test conducted by a third-party testing firm in connection with an investigation described by Subdivision (1) in any manner the commission considers necessary to protect public health and the environment.

[Sections 93.056-93.100 reserved for expansion]

SUBCHAPTER C. USE OF TRACER SUBSTANCES IN HYDRAULIC
FRACTURING TREATMENTS

Sec. 93.101. HYDRAULIC FRACTURING FLUID TRACER. (a) The commission shall adopt rules requiring a person who performs a hydraulic fracturing treatment on a well to include a tracer substance in the base stimulation fluid used to perform the treatment.

(b) Rules adopted under this section may specify the type of tracer substance a person is required to use in performing a hydraulic fracturing treatment, such as an isotope tracer or a color tracer, provided that:

(1) the tracer substance is traceable to a specific person after the tracer substance is used in a hydraulic fracturing treatment; and

(2) the commission has determined that the use of the tracer substance in a hydraulic fracturing treatment will not endanger the public health.

[Sections 93.102-93.150 reserved for expansion]

SUBCHAPTER D. PROTECTION OF GROUNDWATER AND SURFACE WATER

Sec. 93.151. RULES. The commission shall adopt rules concerning hydraulic fracturing treatments that ensure the protection of groundwater and surface water.

SECTION _____. Chapter 93, Natural Resources Code, as added by this Act, applies only to a hydraulic fracturing treatment performed on a well for which an initial drilling permit is issued on or after the effective date of this Act. A hydraulic fracturing treatment performed on a well for which an initial drilling permit is issued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. The Texas Oil and Gas Commission shall adopt rules under Chapter 93, Natural Resources Code, as added by this Act, not later than February 1, 2012.

Floor Amendment No. 30

Amend Amendment No. 29 by Martinez Fischer (page 108 of the prefiled amendments packet) to **CSSB 655** (house committee report) as follows:

(1) Strike added Section 93.001 and 93.002, Natural Resources Code (page 1, line 8, through page 2, line 20).

(2) In the heading to added Section 93.003, Natural Resources Code (page 2, line 21), strike "93.003" and substitute "93.001".

(3) Strike added Subchapter B, Chapter 93, Natural Resources Code (page 3, lines 12-31, pages 4-10, and page 11, lines 1-11).

(4) Strike the heading to added Subchapter C, Chapter 93, Natural Resources Code (page 11, lines 12-13) and substitute "SUBCHAPTER B. STUDIES ON HYDRAULIC FRACTURING REGULATION".

(5) In the heading to added Section 93.101, Natural Resources Code (page 11, line 14), strike "93.101" and substitute "93.051".

(6) In added Section 93.101(a), Natural Resources Code (page 11, line 15), strike "adopt rules" and substitute "conduct a study on the costs and benefits and feasibility of".

(7) In added Section 93.101(b), Natural Resources Code (page 11, lines 19-22), strike all before the colon and substitute the following:

(b) The study shall include a review of types of tracer substances a person could be required to use in performing a hydraulic fracturing treatment, such as isotope tracers or color tracers. The commission shall only include a tracer substance in the review if

(8) Strike the expansion clause on page 11, line 29.

(9) Strike added Subchapter D, Chapter 93, Natural Resources Code, (page 11, lines 30-31 and page 12, lines 1-2) and substitute the following:

Sec. 93.052. HYDRAULIC FRACTURING REGULATION FEASIBILITY STUDY. The commission shall conduct a study on the costs, benefits, and feasibility of regulating hydraulic fracturing treatment in this state. The study must include considerations of:

(1) the feasibility of requiring disclosure of information related to hydraulic fracturing treatment, such as the base fluids, additives, and chemical constituents used by a person in a hydraulic fracturing treatment; and

(2) the protection of groundwater and surface water in this state.

[Sections 93.052-93.100 reserved for expansion]

(10) Strike the remainder of the amendment (page 13, lines 3-13).

Floor Amendment No. 31

Amend **CSSB 655** (house committee printing) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapter 122 to read as follows:

CHAPTER 122. ALTERNATIVE FUELS

Sec. 122.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Fund" means the alternative fuels fund.

Sec. 122.002. ALTERNATIVE FUELS FUND. (a) The alternative fuels fund is created in the state treasury.

(b) The fund consists of money from:

(1) gifts, grants, or other assistance received by the commission from any source for the purposes of this chapter; and

(2) interest earned on amounts in the fund.

(c) Money in the fund may be appropriated only to the commission to be used to pay the costs of:

(1) researching, developing, and implementing marketing, advertising, and informational programs relating to alternative fuels;

(2) implementing consumer rebate programs established under Section 122.004;

(3) other functions the commission determines are necessary to add a program established by the commission for the purpose of promoting the use of environmentally beneficial alternative fuels; and

(4) the administrative costs incurred by the commission under this chapter.

(d) The fund is exempt from the application of Section 403.095, Government Code.

Sec. 122.003. GIFTS, GRANTS, AND OTHER ASSISTANCE. The commission may apply for, request, solicit, contract for, receive, and accept gifts, grants, and other assistance from any source for the purposes of this chapter.

Sec. 122.004. CONSUMER REBATE PROGRAMS. (a) The commission may establish consumer rebate programs for purchasers or lessees of vehicles, appliances, and equipment fueled by environmentally beneficial alternative fuels.

(b) The commission may adopt rules necessary to establish a consumer rebate program under this section.

Floor Amendment No. 32

Amend **CSSB 655** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Section 121.211, Utilities Code, is amended to read as follows:

Sec. 121.211. PIPELINE SAFETY AND REGULATORY FEES.

SECTION _____. Sections 121.211(a), (b), (c), (d), (e), and (h), Utilities Code, are amended to read as follows:

(a) The railroad commission by rule may adopt a ~~[an inspection]~~ fee to be assessed annually against operators of natural gas distribution pipelines and their pipeline facilities and natural gas master metered pipelines and their pipeline facilities subject to this title [chapter].

(b) The railroad commission by rule shall establish the method by which the fee will be calculated and assessed. In adopting a fee structure, the railroad commission may consider any factors necessary to provide for the equitable allocation among operators of the costs of administering the railroad commission's pipeline safety and regulatory program under this title [chapter].

(c) The total amount of fees estimated to be collected under rules adopted by the railroad commission under this section may not exceed the amount estimated by the railroad commission to be necessary to recover the costs of administering the railroad commission's pipeline safety and regulatory program under this title [chapter], excluding costs that are fully funded by federal sources.

(d) The commission may assess each operator of a natural gas distribution system subject to this title [chapter] an annual ~~[inspection]~~ fee not to exceed one dollar for each service line reported by the system on the Distribution Annual Report, Form RSPA F7100.1-1, due on March 15 of each year. The fee is due March 15 of each year.

(e) The railroad commission may assess each operator of a natural gas master metered system subject to this title [chapter] an annual ~~[inspection]~~ fee not to exceed \$100 for each master metered system. The fee is due June 30 of each year.

(h) A fee collected under this section shall be deposited to the credit of the general revenue fund to be used for the pipeline safety and regulatory program.

Floor Amendment No. 37

Amend **CSSB 655** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 551, Government Code, is amended by adding Section 551.091 to read as follows:

Sec. 551.091. TEXAS OIL AND GAS COMMISSION: DELIBERATION REGARDING FINAL DECISION IN A CONTESTED CASE; CLOSED MEETING. The Texas Oil and Gas Commission may conduct a closed meeting to deliberate a final decision in a contested case.

Floor Amendment No. 40

Amend **CSSB 655** by adding the following section, numbered appropriately, and by renumbering any subsequent sections accordingly:

SECTION _____. (a) The Texas Oil and Gas Commission shall conduct a study of the treatment of tax expenses for the purposes of computing gas utility rates under Subchapter B, Chapter 104, Utilities Code, so the commission can develop methods to avoid the inclusion of hypothetical or non-actual tax expenses in a gas utility's allowable costs of service.

(b) The Texas Oil and Gas Commission in conducting the study shall examine the extent to which federal tax law allows for the commission and other regulatory authorities to consider, in computing gas utility rates under Subchapter B, Chapter 104, Utilities Code, the utility's actual federal income tax liability for a federal tax year, including any deductions, credits, or other benefits that may reduce the federal income taxes owed by the utility.

(c) The Texas Oil and Gas Commission in conducting the study shall undertake to develop methods to allow a reasonable fair share of any savings a gas utility accrues from filing for federal income tax purposes a consolidated or joint return to be considered by the commission or another regulatory authority in computing gas utility rates under Subchapter B, Chapter 104, Utilities Code.

(d) The Texas Oil and Gas Commission shall report the results of the study conducted under this section to the governor, the lieutenant governor, the Public Utility Commission of Texas, and the speaker of the house of representatives not later than December 1, 2012. The report must include any methods developed as a result of the study and recommendations for any legislative authorization necessary or helpful to implement the methods.

(e) This section expires September 1, 2013.

Floor Amendment No. 41

Amend **CSSB 655** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) In this section, "commission" means the Texas Oil and Gas Commission.

(b) The commission shall conduct a study regarding the odorization of natural gas transported in gathering and transmission lines located in populated areas. At a minimum, the study must include an examination of:

(1) the costs and benefits associated with odorizing natural gas under those circumstances, including any specific circumstances under which the benefits exceed the costs;

(2) the chemical malodorants and odorization techniques that are available;

(3) any specific circumstances under which odorization is an effective method for leak detection;

(4) any product markets that are incompatible with the use of malodorants;

(5) state and federal odorization requirements, including exemptions from those requirements; and

(6) alternative leak detection methods.

(c) At the commission's request, a state agency or local government shall provide information and assistance in conducting the study under this section.

(d) Not later than December 1, 2012, the commission shall report the results of the study conducted under this section to the lieutenant governor, the speaker of the house of representatives, the presiding officer of the standing committee of the senate with primary jurisdiction over matters affecting natural resources, and the presiding officer of the standing committee of the house of representatives with primary jurisdiction over matters affecting energy resources.

(e) This section expires January 1, 2013.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 655** on third reading by striking the SECTION of the bill adding Section 551.091, Government Code, as added on second reading by Amendment No. 37 by P. King.

Floor Amendment No. 2 on Third Reading

Amend, on 3rd reading, the Turner Amendment No. ____ to **CSSB 655**, and adopted on 2nd reading, as follows:

(1) Strike added Subsections (a) to (e) of Section ____, and substitute:

(a) The Texas Oil and Gas Commission shall conduct a study of the treatment of tax expenses for the purpose of computing gas utility rates under Subchapter B, Chapter 104, Utilities Code, so the commission can ensure that ratepayers receive the full benefit of all federal income tax deductions and credits included in the gas utility or its affiliated group in the filing of a consolidated federal income tax return.

(b) The Texas Oil and Gas Commission in conducting the study shall examine the extent to which federal income tax law limits the consideration of federal income tax issues in computing gas utility rates under Subchapter B, Chapter 104, Utilities Code.

(c) The Texas Oil and Gas Commission shall report the results of the study conducted under this section to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1, 2012.

(d) This section expires December 1, 2012.

Floor Amendment No. 3 on Third Reading

Amend **CSSB 655** on third reading in the SECTION of the bill adding Subchapter S, Chapter 91, Natural Resources Code, as follows:

(1) Strike added Section 91.902(1)(C), Natural Resources Code, and substitute the following:

(C) rules adopted by the commission and the Texas Transportation Commission, including rules relating to the horizontal or vertical placement of the pipeline facility; and

(2) Strike added Section 91.903, Natural Resources Code, and substitute the following:

Sec. 91.903. RELOCATION OF SALTWATER PIPELINE FACILITY FOR CERTAIN PURPOSES. (a) The Texas Transportation Commission may require a saltwater pipeline operator to relocate a saltwater pipeline facility at the cost of the saltwater pipeline operator to accommodate construction or expansion of a public road if the saltwater pipeline operator does not have a property interest in the land occupied by the saltwater pipeline facility to be relocated.

(b) The Texas Transportation Commission shall notify the saltwater pipeline operator of the relocation requirement and may not require the operator to relocate the saltwater pipeline facility before the 180th day after the date the operator receives the notice. The notice must identify the saltwater pipeline facility to be relocated and indicate the location on the new right-of-way where the saltwater pipeline operator may place the saltwater pipeline facility.

The amendments were read.

Senator Hegar 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 655** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Nichols, Nelson, Huffman, and Hinojosa.

SENATE BILL 652 WITH HOUSE AMENDMENTS

Senator Hegar called **SB 652** 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 652** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to governmental entities subject to the sunset review process.

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

ARTICLE 1. ENTITIES GIVEN 2013 SUNSET DATE

SECTION 1.01. UNIVERSITY INTERSCHOLASTIC LEAGUE. Section 33.083, Education Code, is amended by adding Subsection (e) to read as follows:

(e) The University Interscholastic League is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The University Interscholastic League shall be reviewed during the period in which state agencies abolished in 2013 are reviewed. The University Interscholastic League shall pay the costs incurred by the Sunset Advisory Commission in performing the review under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the University Interscholastic League shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2013.

SECTION 1.02. TEXAS HIGHER EDUCATION COORDINATING BOARD. Section 61.0211, Education Code, is amended to read as follows:

Sec. 61.0211. SUNSET PROVISION. The Texas Higher Education Coordinating Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013 ~~[2015]~~.

SECTION 1.03. TEXAS ETHICS COMMISSION. Section 571.022, Government Code, is amended to read as follows:

Sec. 571.022. SUNSET PROVISION. The commission is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The commission shall be reviewed during the periods in which state agencies abolished in 2013 ~~[2015]~~ and every 12th year after that year are reviewed.

SECTION 1.04. TEXAS WINDSTORM INSURANCE ASSOCIATION. Section 2210.002(b), Insurance Code, is amended to read as follows:

(b) The association is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The association shall be reviewed during the period in which state agencies abolished in 2013 ~~[2015]~~ are reviewed. The association shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the association under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the association shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2013 ~~[2015]~~.

SECTION 1.05. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. Section 901.006, Occupations Code, is amended to read as follows:

Sec. 901.006. APPLICATION OF SUNSET ACT. The Texas State Board of Public Accountancy is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013 ~~[2015]~~.

SECTION 1.06. TEXAS BOARD OF PROFESSIONAL ENGINEERS. Section 1001.005, Occupations Code, is amended to read as follows:

Sec. 1001.005. APPLICATION OF SUNSET ACT. The Texas Board of Professional Engineers is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013 [~~2015~~].

SECTION 1.07. TEXAS BOARD OF ARCHITECTURAL EXAMINERS. Section 1051.003, Occupations Code, is amended to read as follows:

Sec. 1051.003. APPLICATION OF SUNSET ACT. The Texas Board of Architectural Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subtitle expires September 1, 2013 [~~2015~~].

SECTION 1.08. REGIONAL TOLLWAY AUTHORITIES. Subchapter B, Chapter 366, Transportation Code, is amended by adding Section 366.039 to read as follows:

Sec. 366.039. SUNSET REVIEW. (a) An authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished under that chapter. The review shall be conducted as if the authority were scheduled to be abolished September 1, 2013.

(b) The authority shall pay the costs incurred by the Sunset Advisory Commission in performing a review of the authority under this section. The Sunset Advisory Commission shall determine the costs, and the authority shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the costs.

SECTION 1.09. GULF COAST WATER AUTHORITY. Chapter 712, Acts of the 59th Legislature, Regular Session, 1965, is amended by adding Section 1A to read as follows:

Sec. 1A. The District is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The District shall be reviewed during the period in which state agencies abolished in 2013 are reviewed. The District shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the District under this section. The Sunset Advisory Commission shall determine the costs, and the District shall pay the amount promptly on receipt of a statement from the commission detailing the costs.

ARTICLE 2. ENTITIES GIVEN 2015 SUNSET DATE

SECTION 2.01. FINANCE COMMISSION OF TEXAS. Section 11.108, Finance Code, is amended to read as follows:

Sec. 11.108. SUNSET PROVISION. The finance commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2015 [~~2013~~].

SECTION 2.02. OFFICE OF BANKING COMMISSIONER. Section 12.109, Finance Code, is amended to read as follows:

Sec. 12.109. SUNSET PROVISION. The office of banking commissioner is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2015 [~~2013~~].

SECTION 2.03. OFFICE OF SAVINGS AND MORTGAGE LENDING COMMISSIONER AND THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING. Section 13.012, Finance Code, is amended to read as follows:

Sec. 13.012. SUNSET PROVISION. The office of savings and mortgage lending commissioner and the Department of Savings and Mortgage Lending are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office and department are abolished September 1, 2015 ~~[2013]~~.

SECTION 2.04. OFFICE OF CONSUMER CREDIT COMMISSIONER. Section 14.066, Finance Code, is amended to read as follows:

Sec. 14.066. SUNSET PROVISION. The office is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2015 ~~[2013]~~.

SECTION 2.05. HEALTH AND HUMAN SERVICES COMMISSION. Section 531.004, Government Code, is amended to read as follows:

Sec. 531.004. SUNSET PROVISION. The Health and Human Services Commission 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, 2015 ~~[2013]~~.

SECTION 2.06. TAX DIVISION OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS. Section 2003.102(b), Government Code, is amended to read as follows:

(b) The Sunset Advisory Commission shall evaluate the tax division and present to the 84th ~~[83rd]~~ Legislature a report on that evaluation and the commission's recommendations in relation to the tax division.

SECTION 2.07. CONFORMING AMENDMENT RELATING TO FORMER TEXAS BOARD OF HEALTH AND TEXAS DEPARTMENT OF HEALTH. Section 11.003, Health and Safety Code, is amended to read as follows:

Sec. 11.003. SUNSET PROVISION. The Texas Board of Health and the Texas Department of Health were abolished by Section 1.26, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, and the powers and duties of those entities under this chapter were transferred to other agencies, which are subject to Chapter 325, Government Code (Texas Sunset Act). Unless the agencies to which those powers and duties are transferred are continued in existence as provided by that chapter, ~~[the board and the department are abolished and]~~ this chapter expires September 1, 2015 ~~[2011]~~.

SECTION 2.08. TEXAS HEALTH SERVICES AUTHORITY. Section 182.052, Health and Safety Code, is amended to read as follows:

Sec. 182.052. APPLICATION OF SUNSET ACT. The corporation is subject to Chapter 325, Government Code. Unless continued in existence as provided by that chapter, the corporation is abolished and this chapter expires September 1, 2015 ~~[2013]~~. The governor may order the dissolution of the corporation at any time the governor declares that the purposes of the corporation have been fulfilled or that the corporation is inoperative or abandoned.

SECTION 2.09. CONFORMING AMENDMENT RELATING TO FORMER TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION. Section 532.002, Health and Safety Code, is amended to read as follows:

Sec. 532.002. SUNSET PROVISION. The Texas Department of Mental Health and Mental Retardation was abolished by Section 1.26, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, and the powers and duties of that agency under this chapter were transferred to other agencies, which are [is] subject to Chapter 325, Government Code (Texas Sunset Act). Unless the agencies to which those powers and duties are transferred are continued in existence as provided by that Act, [the department is abolished and] this chapter expires September 1, 2015 [2014].

SECTION 2.10. DEPARTMENT OF STATE HEALTH SERVICES. Section 1001.003, Health and Safety Code, is amended to read as follows:

Sec. 1001.003. SUNSET PROVISION. The Department of State Health Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2015 [2013].

SECTION 2.11. CONFORMING AMENDMENT RELATING TO FORMER TEXAS DEPARTMENT OF HUMAN SERVICES. Section 21.002, Human Resources Code, is amended to read as follows:

Sec. 21.002. SUNSET PROVISION. The Texas Department of Human Services was abolished by Section 1.26, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, and the powers and duties of that agency under this chapter were transferred to other agencies, which are [is] subject to Chapter 325, Government Code (Texas Sunset Act). Unless the agencies to which those powers and duties are transferred are continued in existence as provided by that chapter, [the department is abolished and] this title expires September 1, 2015 [2014], except that Chapter 40 expires as provided by Section 40.003.

SECTION 2.12. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. Section 40.003, Human Resources Code, is amended to read as follows:

Sec. 40.003. SUNSET PROVISION. The Department of Family and Protective Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2015 [2013].

SECTION 2.13. CONFORMING AMENDMENT RELATING TO FORMER TEXAS COMMISSION FOR THE DEAF AND HARD OF HEARING. Section 81.004, Human Resources Code, is amended to read as follows:

Sec. 81.004. SUNSET PROVISION. The Texas Commission for the Deaf and Hard of Hearing was abolished by Section 1.26, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, and the powers and duties of that agency under this chapter were transferred to other agencies, which are [is] subject to Chapter 325, Government Code (Texas Sunset Act). Unless the agencies to which those powers and duties are transferred are [commission is] continued in existence as provided by that chapter, [the commission is abolished and] this chapter expires September 1, 2015 [2014].

SECTION 2.14. CONFORMING AMENDMENT RELATING TO FORMER TEXAS COMMISSION FOR THE BLIND. Section 91.001, Human Resources Code, is amended to read as follows:

Sec. 91.001. SUNSET PROVISION. The Texas Commission for the Blind was abolished by Section 1.26, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, and the powers and duties of that agency under this chapter were transferred to other agencies, which are ~~is~~ subject to Chapter 325, Government Code (Texas Sunset Act). Unless the agencies to which those powers and duties are transferred are continued in existence as provided by that chapter, ~~the commission is abolished and~~ this chapter expires effective September 1, 2015 ~~[2011]~~.

SECTION 2.15. CONFORMING AMENDMENT RELATING TO FORMER TEXAS REHABILITATION COMMISSION. Section 111.012, Human Resources Code, is amended to read as follows:

Sec. 111.012. SUNSET PROVISION. The Texas Rehabilitation Commission was abolished by Section 1.26, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, and the powers and duties of that agency under this chapter were transferred to other agencies, which are ~~is~~ subject to Chapter 325, Government Code (Texas Sunset Act). Unless the agencies to which those powers and duties are transferred are continued in existence as provided by that chapter, ~~the commission is abolished and~~ this chapter expires September 1, 2015 ~~[2011]~~.

SECTION 2.16. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES. Section 112.023, Human Resources Code, is amended to read as follows:

Sec. 112.023. SUNSET PROVISION. The Texas Council for Developmental Disabilities is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this chapter expires September 1, 2015 ~~[2013]~~.

SECTION 2.17. GOVERNOR'S COMMITTEE ON PEOPLE WITH DISABILITIES. Section 115.005, Human Resources Code, is amended to read as follows:

Sec. 115.005. SUNSET PROVISION. The Governor's Committee on People with Disabilities is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this chapter expires September 1, 2015 ~~[2013]~~.

SECTION 2.18. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES. Section 117.003, Human Resources Code, is amended to read as follows:

Sec. 117.003. SUNSET PROVISION. The Department of Assistive and Rehabilitative Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2015 ~~[2013]~~.

SECTION 2.19. TEXAS COUNCIL ON PURCHASING FROM PEOPLE WITH DISABILITIES. Section 122.006, Human Resources Code, is amended to read as follows:

Sec. 122.006. SUNSET PROVISION. The Texas Council on Purchasing from People with Disabilities is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this chapter expires September 1, 2015 ~~[2013]~~.

SECTION 2.20. DEPARTMENT OF AGING AND DISABILITY SERVICES. Section 161.003, Human Resources Code, is amended to read as follows:

Sec. 161.003. SUNSET PROVISION. The Department of Aging and Disability Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2015 ~~[2013]~~.

SECTION 2.21. TEXAS WORKFORCE COMMISSION. Section 301.008, Labor Code, is amended to read as follows:

Sec. 301.008. APPLICATION OF SUNSET ACT. The Texas Workforce Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2015 ~~[2013]~~.

SECTION 2.22. STATE SECURITIES BOARD. Subsection O, Section 2, The Securities Act (Article 581-2, Vernon's Texas Civil Statutes), is amended to read as follows:

O. The State Securities Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2015 ~~[2013]~~.

ARTICLE 3. ENTITIES GIVEN 2017 SUNSET DATE

SECTION 3.01. COURT REPORTERS CERTIFICATION BOARD. Section 52.014, Government Code, is amended to read as follows:

Sec. 52.014. SUNSET PROVISION. The Court Reporters Certification Board is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2017 ~~[2015]~~.

SECTION 3.02. LICENSED COURT INTERPRETER ADVISORY BOARD. Section 57.051, Government Code, is amended to read as follows:

Sec. 57.051. SUNSET. The licensed court interpreter advisory board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2017 ~~[2013]~~.

SECTION 3.03. STATE BAR OF TEXAS. Section 81.003, Government Code, is amended to read as follows:

Sec. 81.003. SUNSET PROVISION. The state bar is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, this chapter expires September 1, 2017 ~~[2015]~~.

SECTION 3.04. BOARD OF LAW EXAMINERS. Section 82.006, Government Code, is amended to read as follows:

Sec. 82.006. SUNSET PROVISION. The Board of Law Examiners is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2017 ~~[2015]~~.

SECTION 3.05. STATE BOARD OF DENTAL EXAMINERS. Section 251.005, Occupations Code, is amended to read as follows:

Sec. 251.005. APPLICATION OF SUNSET ACT. The State Board of Dental Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2017 [~~2015~~].

SECTION 3.06. EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS. Section 452.002, Occupations Code, is amended to read as follows:

Sec. 452.002. APPLICATION OF SUNSET ACT. The Executive Council of Physical Therapy and Occupational Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the executive council is abolished and the following laws expire September 1, 2017 [~~2013~~]:

- (1) this chapter;
- (2) Chapter 453; and
- (3) Chapter 454.

SECTION 3.07. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS. Section 453.002, Occupations Code, is amended to read as follows:

Sec. 453.002. APPLICATION OF SUNSET ACT. The Texas Board of Physical Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2017 [~~2013~~].

SECTION 3.08. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS. Section 454.003, Occupations Code, is amended to read as follows:

Sec. 454.003. APPLICATION OF SUNSET ACT. The Texas Board of Occupational Therapy Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2017 [~~2013~~].

SECTION 3.09. TEXAS BOARD OF ORTHOTICS AND PROSTHETICS. Section 605.003, Occupations Code, is amended to read as follows:

Sec. 605.003. APPLICATION OF SUNSET ACT. The Texas Board of Orthotics and Prosthetics is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2017 [~~2013~~].

ARTICLE 4. ENTITIES GIVEN 2019 SUNSET DATE

SECTION 4.01. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS. Section 411.002(c), Government Code, is amended to read as follows:

(c) The Department of Public Safety of the State of Texas is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and Subsections (a) and (b) expire September 1, 2019 [~~2015~~].

SECTION 4.02. ADJUTANT GENERAL'S DEPARTMENT. Section 431.023, Government Code, is amended to read as follows:

Sec. 431.023. SUNSET PROVISION. The adjutant general's department is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this subchapter expires September 1, 2019 [~~2015~~].

SECTION 4.03. TEXAS VETERANS COMMISSION. Section 434.002(a), Government Code, is amended to read as follows:

(a) The Texas Veterans Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2019 [~~2013~~].

SECTION 4.04. SCHOOL LAND BOARD. Section 32.003, Natural Resources Code, is amended to read as follows:

Sec. 32.003. APPLICATION OF SUNSET ACT. The School Land Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2019 [~~2017~~].

SECTION 4.05. TEXAS COMMISSION OF LICENSING AND REGULATION AND THE TEXAS DEPARTMENT OF LICENSING AND REGULATION. Section 51.002, Occupations Code, is amended to read as follows:

Sec. 51.002. APPLICATION OF SUNSET ACT. The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2019 [~~2015~~].

SECTION 4.06. TEXAS FUNERAL SERVICE COMMISSION. Section 651.002, Occupations Code, is amended to read as follows:

Sec. 651.002. APPLICATION OF SUNSET ACT. The Texas Funeral Service Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2019 [~~2015~~].

SECTION 4.07. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS. Section 1002.003, Occupations Code, is amended to read as follows:

Sec. 1002.003. APPLICATION OF SUNSET ACT. The Texas Board of Professional Geoscientists is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2019 [~~2015~~].

SECTION 4.08. TEXAS BOARD OF PROFESSIONAL LAND SURVEYING. Section 1071.003, Occupations Code, is amended to read as follows:

Sec. 1071.003. APPLICATION OF SUNSET ACT. The Texas Board of Professional Land Surveying is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2019 [~~2015~~].

SECTION 4.09. TEXAS STATE BOARD OF PLUMBING EXAMINERS. Section 1301.003, Occupations Code, is amended to read as follows:

Sec. 1301.003. APPLICATION OF SUNSET ACT. The Texas State Board of Plumbing Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2019 [~~2015~~].

SECTION 4.10. TEXAS DEPARTMENT OF MOTOR VEHICLES. Section 1001.005, Transportation Code, is amended to read as follows:

Sec. 1001.005. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2019 ~~[2015]~~.

ARTICLE 5. ENTITIES GIVEN 2021 SUNSET DATE

SECTION 5.01. TEXAS ANIMAL HEALTH COMMISSION. Section 161.027, Agriculture Code, is amended to read as follows:

Sec. 161.027. SUNSET PROVISION. The Texas Animal Health Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2021 ~~[2019]~~.

SECTION 5.02. PREPAID HIGHER EDUCATION TUITION BOARD. Section 54.603, Education Code, is amended to read as follows:

Sec. 54.603. SUNSET PROVISION. The Prepaid Higher Education Tuition Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and the programs established under this subchapter and under Subchapters G and H terminate September 1, 2021 ~~[2019]~~.

SECTION 5.03. TEXAS GUARANTEED STUDENT LOAN CORPORATION. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this chapter expires September 1, 2021 ~~[2017]~~.

SECTION 5.04. TEXAS ECONOMIC DEVELOPMENT AND TOURISM OFFICE. Section 481.003, Government Code, is amended to read as follows:

Sec. 481.003. SUNSET PROVISION. The Texas Economic Development and Tourism Office is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2021 ~~[2015]~~.

SECTION 5.05. OFFICE OF STATE-FEDERAL RELATIONS. Section 751.003, Government Code, is amended to read as follows:

Sec. 751.003. SUNSET PROVISION. The Office of State-Federal Relations is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2021 ~~[2015]~~.

ARTICLE 6. ENTITIES REMOVED FROM SPECIFIC SUNSET REVIEW

SECTION 6.01. BOARD OF DIRECTORS OF THE OFFICIAL CITRUS PRODUCERS' PEST AND DISEASE MANAGEMENT CORPORATION. Section 80.028, Agriculture Code, is amended to read as follows:

Sec. 80.028. DISSOLUTION ~~[SUNSET]~~ PROVISION. (a) ~~[The board of directors of the official citrus producers' pest and disease management corporation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2021.]~~

~~(b)~~ The commissioner may order the dissolution of the corporation at any time the commissioner determines that the purposes of this chapter have been fulfilled or that the corporation is inoperative and abandoned. Dissolution shall be conducted in accordance with Section 80.014.

(b) ~~(c)~~ If the corporation ~~[is abolished]~~ or the suppression program is discontinued for any reason, assessments approved, levied, or otherwise collectible on the date of discontinuance ~~[abolishment]~~ remain valid as necessary to pay the financial obligations of the corporation.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. 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, 2011.

Floor Amendment No. 1

Amend **CSSB 652** (house committee printing) by adding the following ARTICLE to the bill and renumbering subsequent ARTICLES of the bill as appropriate:

ARTICLE _____. ENTITIES GIVEN 2023 SUNSET DATE

SECTION _____. TEXAS INVASIVE SPECIES COORDINATING COMMITTEE. Section 776.007, Government Code, is amended to read as follows:

Sec. 776.007. SUNSET PROVISION. The committee is subject to Chapter 325 (Texas Sunset Act). The committee shall be reviewed during the periods in which the State Soil and Water Conservation Board is reviewed. Unless continued in existence as provided by that chapter, the committee is abolished and this chapter expires on the date on which that agency is subject to abolishment ~~[September 1, 2013]~~.

Floor Amendment No. 2

Amend **CSSB 652** (house committee printing) by striking SECTION 1.09 of the bill (page 4, lines 5-16) and renumbering subsequent SECTIONS of the bill as appropriate.

Floor Amendment No. 4

Amend **CSSB 652** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION 1. _____. Chapter 72, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. PROCESS SERVER REVIEW BOARD

Sec. 72.091. SUNSET REVIEW. The process server review board established by supreme court order is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished under that chapter. The review shall be conducted as if the process server review board were scheduled to be abolished September 1, 2017.

The amendments were read.

Senator Hegar 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 652** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Whitmire, Hinojosa, Nichols, and Huffman.

SENATE BILL 263 WITH HOUSE AMENDMENT

Senator Carona called **SB 263** 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 263** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the revocation or suspension of the license of a physician placed on deferred adjudication community supervision or arrested for certain offenses.

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

SECTION 1. Section 164.057, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The board shall revoke the license of a physician placed on deferred adjudication community supervision for an offense under:

(1) Section 22.011(a)(2), Penal Code (sexual assault of a child);

(2) Section 22.021(a)(1)(B), Penal Code (aggravated sexual assault of a child); or

(3) Section 21.11, Penal Code (indecent with a child).

SECTION 2. Subchapter B, Chapter 164, Occupations Code, is amended by adding Section 164.0595 to read as follows:

Sec. 164.0595. TEMPORARY SUSPENSION OF LICENSE FOR CERTAIN ARRESTS. (a) A disciplinary panel appointed under Section 164.059 may suspend the license of a person arrested for an offense under:

(1) Section 22.011(a)(2), Penal Code (sexual assault of a child);

(2) Section 22.021(a)(1)(B), Penal Code (aggravated sexual assault of a child);

(3) Section 21.02, Penal Code (continuous sexual abuse of a young child or children); or

(4) Section 21.11, Penal Code (indecent with a child).

(b) Before suspending a license under this section, the disciplinary panel must determine that the person arrested for an offense listed in Subsection (a) is the same person who holds a license issued by the board.

(c) A suspension under this section remains in effect until the final disposition of the case.

(d) Sections 164.059(c), (d), (e), (f), and (g) apply to a suspension under this section.

(e) The board shall adopt rules to implement this section, including rules regarding evidence that serves as proof of final disposition of a case.

SECTION 3. Section 164.102(b), Occupations Code, is amended to read as follows:

(b) Except on an express determination, based on substantial evidence, that granting probation is in the best interests of the public and of the person whose license has been suspended, revoked, or canceled, the board may not grant probation to a person whose license has been canceled, revoked, or suspended because of a felony conviction under:

(1) Chapter 481 or 483, Health and Safety Code;

(2) Section 485.033, Health and Safety Code; ~~or~~

(3) the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.); or

(4) any of the following sections of the Penal Code:

(A) Section 22.011(a)(2) (sexual assault of a child);

(B) Section 22.021(a)(1)(B) (aggravated sexual assault of a child);

(C) Section 21.02 (continuous sexual abuse of a young child or children); or

(D) Section 21.11 (indecenty with a child).

SECTION 4. (a) Sections 164.057(c) and 164.0595, Occupations Code, as added by this Act, and Section 164.102, Occupations Code, as amended by this Act, apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

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

SECTION 5. This Act takes effect September 1, 2011.

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 263** 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; Rodriguez, Zaffirini, Seliger, and Eltife.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1555 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **HB 1555**. The Conference Committee Report was filed with the Senate on Tuesday, May 17, 2011.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE BILL 900 WITH HOUSE AMENDMENT

Senator Gallegos called **SB 900** 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 900** (house committee report) by striking SECTION 6 of the bill (page 3, line 18, through page 6, line 1) and substituting the following:

SECTION 6. (a) The following territory is added to the territory of the East Aldine Management District, formerly known as the Aldine Improvement District:

Tract 1-BEGINNING at the northwestern corner of the boundary of the East Aldine Management District at the north right of way of Aldine Bender Road and the east boundary of Greater Greenspoint Management District;

THENCE, northerly along the east boundary of Greater Greenspoint Management District to the southern boundary of Greens Parkway Municipal Utility District ("GPMUD");

THENCE, east along the southern boundary of GPMUD to the point at which the GPMUD boundary turns north at the right of way of Greens Road;

THENCE, continuing east along the north right of way of Greens Road to the intersection of Greens Road and the City of Houston full-purpose boundary line;

THENCE, south along the City of Houston full-purpose boundary line, across Beltway 8 to the point at which the City of Houston full-purpose boundary line intersects the northern boundary of East Aldine Management District at Aldine Bender Road;

THENCE, west along the northern boundary line of East Aldine Management District, TO THE POINT OF BEGINNING.

Tract 2-BEGINNING at the point at which the northern boundary line of the East Aldine Management District intersects the City of Houston full-purpose boundary line on the east side of the right of way of Aldine Bender Road;

THENCE, north along the City of Houston full-purpose boundary line to the point at which the City of Houston full-purpose boundary line turns east;

THENCE, generally east along the City of Houston full-purpose boundary line to the point at which the City of Houston full-purpose boundary line reaches the right of way of John F. Kennedy Boulevard, then south along the same City of Houston full-purpose boundary line to the right of way of Aldine Bender Road where it meets the north boundary line of East Aldine Management District;

THENCE, west along the north boundary line of East Aldine Management District, to the POINT OF BEGINNING.

Tract 3-BEGINNING at the point at which the western boundary line of the East Aldine Management District intersects the north easement of Harris County Flood Control District (HCFCD) drainage ditch (#9 DD-7, P138-00-00 tributary 24.97 to Greens Bayou);

THENCE, westerly along the north easement of HCFCD drainage ditch (#9 DD-7, P138-00-00 tributary 24.97 to Greens Bayou) to east boundary of City of Houston full-purpose boundary line;

THENCE, south along east boundary of City of Houston full-purpose boundary line, across HCFCD easement of drainage ditch (#9 DD-7, P138-00-00 tributary 24.97 to Greens Bayou) to north boundary of Colonial Hills Subdivision

THENCE, west along the north boundary of Colonial Hills Subdivision to northwest corner of said subdivision;

THENCE, southerly along the west boundary of Colonial Hills Subdivision to southwest corner of said subdivision;

THENCE east along the south boundary of Colonial Hills Subdivision to southeast corner of said subdivision;

THENCE, north along the east boundary of Colonial Hills Subdivision to northeast corner of said subdivision and south easement of HCFCD drainage ditch (#9 DD-7, P138-00-00 tributary 24.97 to Greens Bayou);

THENCE easterly along the south easement of HCFCD drainage ditch (#9 DD-7, P138-00-00 tributary 24.97 to Greens Bayou) to west boundary of existing East Aldine Management District;

THENCE, north along west boundary of existing East Aldine Management District, across easement of HCFCD drainage ditch (#9 DD-7, P138-00-00 tributary 24.97 to Greens Bayou), to the POINT OF BEGINNING.

(b) The territory described by Subsection (a) of this section does not include any territory, as of the effective date of this Act, that:

(1) is in the City of Houston; or

(2) the City of Houston has annexed for limited purposes under Section 43.0751 or Subchapter F, Chapter 43, Local Government Code, except for the right-of-way of Greens Bayou.

(c) A change to a boundary described by Subsection (b) of this section after the effective date of this Act does not change the boundaries of the East Aldine Management District.

The amendment was read.

Senator Gallegos moved to concur in the House amendment to **SB 900**.

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

SENATE BILL 166 WITH HOUSE AMENDMENT

Senator Shapiro called **SB 166** 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 166** (house committee printing), on page 5, between lines 2 and 3, by inserting the following:

Sec. 420A.011. ADMINISTRATIVE ATTACHMENT; SUPPORT. (a) The office is administratively attached to the Department of State Health Services.

(b) The Department of State Health Services shall provide administrative support services, including human resources, budgetary, accounting, purchasing, payroll, information technology, and legal support services, to the office as necessary to carry out the purposes of this chapter.

(c) The office, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request for the Department of State Health Services and is used to develop the office's budget structure. The office shall maintain the office's legislative appropriations request and budget structure separately from those of the department.

The amendment was read.

Senator Shapiro moved to concur in the House amendment to **SB 166**.

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

SENATE BILL 864 WITH HOUSE AMENDMENT

Senator Rodriguez called **SB 864** 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 864** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 651.303(b) and (c), Occupations Code, are amended to read as follows:

(b) The commission by rule shall define the terms of employment of a provisional license holder. The terms of employment[±

~~(+)] must include service by the provisional license holder[±~~

~~(A) of at least 17 hours a week or 73 hours a month; and~~

~~(B) under actual working conditions and under the personal supervision of a funeral director or embalmer[± and~~

~~(2) may not require more than 17 hours a week or 73 hours a month].~~

(c) The term of the provisional license program must be at least 12 consecutive months but not more than 24 consecutive months.

SECTION _____. Subchapter K, Chapter 651, Occupations Code, is amended by adding Section 651.5011 to read as follows:

Sec. 651.5011. CHARGING FUNERAL DIRECTOR IN CHARGE WITH VIOLATION. In determining whether to charge a funeral director in charge with a violation based on conduct for which a licensed employee of the funeral establishment was directly responsible, the commission may consider:

- (1) the nature and seriousness of the violation;
(2) the extent to which the licensed employee of the funeral establishment whose conduct is the basis of the violation was under the direct supervision of the funeral director in charge or another person at the time the licensed employee engaged in the conduct; and
(3) the causal connection between the supervision of the licensed employee of the funeral establishment by the funeral director in charge and the conduct engaged in by the licensed employee that is the basis of the violation.

The amendment was read.

Senator Rodriguez moved to concur in the House amendment to **SB 864**.

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

SENATE BILL 1082 WITH HOUSE AMENDMENTS

Senator Hegar called **SB 1082** 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 1082** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 43.0751, Local Government Code, is amended by adding Subsection (f-1) read as follows:

(f-1) A strategic partnership agreement may not provide for the regulation of fireworks within the boundaries of the district.

SECTION _____. Section 43.0751(f-1), Local Government Code, as added by this Act, apply only to a strategic partnership agreement entered into on or after the effective date of this Act.

Floor Amendment No. 2

Amend **SB 1082** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 43.0751, Local Government Code, is amended by adding Subsection (k-1) to read as follows:

(k-1) A strategic partnership agreement may not provide for the imposition of a sales tax without voter approval within the boundaries of the district.

SECTION _____. Section 43.0751(k-1), Local Government Code, as added by this Act, applies only to a strategic partnership agreement entered into on or after the effective date of this Act.

Floor Amendment No. 1 on Third Reading

Amend **SB 1082** on third reading by striking Amendment No. 2 by Elkins, adding Section 43.0751(k-1), Local Government Code, and a transition section related to that added subsection.

Floor Amendment No. 2 on Third Reading

Amend **SB 1082** on third reading as follows:

(1) Strike Amendment No. 1 by Elkins, adding Section 43.0751(f-1), Local Government Code, and the transition section related to that added subsection.

(2) Add the following appropriately numbered SECTIONS to the bill as follows:

SECTION _____. Subchapter D, Chapter 43, Local Government Code, is amended by adding Section 43.07515 to read as follows:

Sec. 43.07515. REGULATION OF FIREWORKS UNDER STRATEGIC PARTNERSHIP AGREEMENT LAW. (a) A municipality may not regulate under Section 43.0751 or 43.0752 the sale, use, storage, or transportation of fireworks outside of the municipality's boundaries.

(b) To the extent of a conflict with any other law, this section controls.

SECTION _____. Section 43.07515, Local Government Code, as added by this Act, applies only to a regulation adopted on or after the effective date of this Act.

(3) Renumber the remaining SECTIONS of the bill appropriately.

The amendments were read.

Senator Hegar moved to concur in the House amendments to **SB 1082**.

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

SENATE BILL 650 WITH HOUSE AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

(c) The program must:

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

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

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

(B) a physician's office;

(C) a pharmacy;

(D) the participant's place of voting;

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

(F) a government building.

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

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

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

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

(1) provide necessary dispatch services; and
(2) ensure the provider receives payment from the withdrawn unit of election.

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

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

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

Floor Amendment No. 2

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

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

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

;

(F) participation of historically underutilized businesses; and

(G) cost-benefit analyses

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

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

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

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

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

(2) deposits to the account;

(3) account expenditures; and

(4) interest income to the account.

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

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

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

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

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

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

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

Floor Amendment No. 2 on Third Reading

Amend **SB 650** on third reading as follows:

(1) In Section 451.134(a), Transportation Code, as amended on second reading by the Workman amendment, strike "90 days" and substitute "two months".

(2) Strike SECTION 3 of the bill, as amended on second reading by the Workman amendment, and substitute the following appropriately numbered SECTION:

SECTION _____. Not later than September 1, 2016, a metropolitan rapid transit authority required to establish a reserve account under Section 451.134, Transportation Code, as added by this Act, shall establish the account. Not later than December 31, 2014, the authority shall file a report on the authority's progress in fulfilling this requirement with the lieutenant governor, speaker of the house of representatives, and each member of the legislature.

(3) In SECTION 1 of the bill, strike Section 451.139(a), Transportation Code, and substitute the following:

(a) An authority may issue bonds only in an amount necessary for managing or funding retiree pension benefit obligations for pension plans existing as of January 1, 2011, and that result from the competitive bidding of transit services required by Section 451.137.

The amendments were read.

Senator Hegar moved to concur in the House amendments to **SB 650**.

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

SENATE BILL 233 WITH HOUSE AMENDMENT

Senator Deuell called **SB 233** 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 233** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the creation of the Rowlett Pecan Grove Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3895 to read as follows:

CHAPTER 3895. ROWLETT PECAN GROVE MANAGEMENT DISTRICT SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3895.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the City of Rowlett, Texas.

(3) "Director" means a board member.

(4) "District" means the Rowlett Pecan Grove Management District.

(5) "Improvement project" means any program or project authorized by

Section 3895.102, inside or outside the district.

Sec. 3895.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3895.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city or Dallas County from providing the level of services provided to the area in the district as of the effective date of the Act enacting this chapter. The district is created to supplement and not to supplant the city and county services provided in the district.

Sec. 3895.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, potential employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3895.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act creating this chapter, as that territory may have been modified under Section 3895.109 or other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act creating this chapter form a closure. A mistake in the field notes of the district contained in Section 2 of the Act creating this chapter or in copying the field notes in the legislative process does not in any way affect the district's:

(1) organization, existence, or validity;

(2) right to contract, including the right to issue any type of bond or other obligation for a purpose for which the district is created;

(3) right to impose or collect an assessment, tax, or any other revenue; or

(4) legality or operation.

Sec. 3895.006. ELIGIBILITY FOR REINVESTMENT OR ENTERPRISE ZONES. (a) All or any part of the area of the district is eligible, regardless of other statutory criteria, to be included in:

(1) a tax increment reinvestment zone created by the city under Chapter 311, Tax Code; or

(2) a tax abatement reinvestment zone created by the city under Chapter 312, Tax Code.

(b) All or any part of the area of the district is eligible to be nominated for inclusion in an enterprise zone by the city under Chapter 2303, Government Code.

Sec. 3895.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3895.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3895.009-3895.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3895.051. BOARD OF DIRECTORS. The district is governed by a board of five directors appointed under Section 3895.052 and three directors serving ex officio under Section 3895.053.

Sec. 3895.052. APPOINTMENT OF DIRECTORS; TERMS. (a) The mayor and governing body of the city shall appoint voting directors. A person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person. A member of the governing body of the city may not be appointed to the board.

(b) Section 375.063, Local Government Code, does not apply to the district.

(c) The appointed directors serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(d) A person may not be appointed to the board if the appointment of that person would result in fewer than three of the directors residing in the city.

(e) The governing body of the city shall appoint a director to fill a vacancy that occurs on the board.

(f) A director is a public official entitled to governmental immunity for the director's official actions.

Sec. 3895.053. NONVOTING DIRECTORS. (a) The following persons serve as nonvoting ex officio directors:

(1) the manager of the city;

(2) the financial director of the city; and

(3) the planning director of the city.

(b) If an office described by Subsection (a) is renamed, changed, or abolished, the governing body of the city may appoint another city officer or employee who performs duties comparable to those performed by the officer described by Subsection (a).

Sec. 3895.054. CONFLICTS OF INTEREST. (a) Except as provided by Section 3895.053 or this section:

(1) a director may participate in all board votes and decisions; and

(2) Chapter 171, Local Government Code, governs conflicts of interest of board members.

(b) A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in a discussion of or vote on a matter regarding a contract with that same public entity.

Sec. 3895.055. DIRECTOR'S OATH OR AFFIRMATION. A director's oath or affirmation of office shall be filed with the district and the district shall retain the oath or affirmation in the district records.

Sec. 3895.056. OFFICERS. The board shall elect from among the directors a chair, vice chair, and secretary.

Sec. 3895.057. COMPENSATION OF DIRECTORS; REIMBURSEMENT OF EXPENSES. A director is not entitled to compensation for service on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

Sec. 3895.058. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

- (1) _____ ;
- (2) _____ ;
- (3) _____ ;
- (4) _____ ; and
- (5) _____ .

(b) Of the initial directors, the terms of directors appointed for positions 1 and 2 expire June 1, 2013, and the terms of directors appointed for positions 3 through 5 expire June 1, 2015.

(c) This section expires September 1, 2015.

Sec. 3895.059. QUORUM. For purposes of determining whether a quorum of the board is present, the following are not counted:

- (1) a board position vacant for any reason, including death, resignation, or disqualification;
- (2) a director who is abstaining from participation in a vote because of a conflict of interest; or
- (3) a nonvoting director.

[Sections 3895.060-3895.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3895.101. GENERAL POWERS AND DUTIES. The district has the powers and duties provided by:

- (1) the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code;
- (2) the general laws relating to road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapter 441, Transportation Code; and
- (3) Chapter 375, Local Government Code.

Sec. 3895.102. IMPROVEMENT PROJECTS. (a) The district may provide, or it may enter into contracts with a governmental or private entity to provide, the following types of improvement projects or activities in support of or incidental to those projects:

- (1) a supply and distribution facility or system to provide potable and city-approved nonpotable water to the residents and businesses of the district, including a wastewater collection facility;
- (2) a paved road or street, inside and outside the district, to the extent authorized by Section 52, Article III, Texas Constitution;
- (3) the planning, design, construction, improvement, and maintenance of:
 - (A) landscaping;
 - (B) highway right-of-way or transit corridor beautification and improvement;
 - (C) lighting, banners, and signs;
 - (D) a street or sidewalk;
 - (E) a hiking and cycling path or trail;
 - (F) a pedestrian walkway, skywalk, crosswalk, or tunnel;

(G) a park, lake, garden, recreational facility, sports facility, open space, scenic area, or related exhibit or preserve;

(H) a fountain, plaza, or pedestrian mall; or

(I) a drainage or storm-water detention improvement;

(4) protection and improvement of the quality of storm water that flows through the district;

(5) the planning, design, construction, improvement, maintenance, and operation of:

(A) a water or sewer facility; or

(B) an off-street parking facility or heliport;

(6) the planning and acquisition of:

(A) public art and sculpture and related exhibits and facilities; or

(B) an educational and cultural exhibit or facility;

(7) the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:

(A) a conference, convention, or exhibition;

(B) a manufacturer, consumer, or trade show;

(C) a civic, community, or institutional event; or

(D) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday;

(8) the removal, razing, demolition, or clearing of land or improvements in connection with an improvement project;

(9) the acquisition and improvement of land or other property for the mitigation of the environmental effects of an improvement project;

(10) the acquisition of property or an interest in property in connection with an authorized improvement project;

(11) a special or supplemental service for the improvement and promotion of the district or an area adjacent to the district or for the protection of public health and safety in or adjacent to the district, including:

(A) advertising;

(B) promotion;

(C) tourism;

(D) health and sanitation;

(E) public safety;

(F) security;

(G) fire protection or emergency medical services;

(H) business recruitment;

(I) development;

(J) elimination of traffic congestion; and

(K) recreational, educational, or cultural improvements, enhancements, and services; or

(12) any similar public improvement, facility, or service.

(b) The district may not undertake an improvement project under this section unless the board determines the project to be necessary to accomplish a public purpose of the district.

(c) An improvement project must comply with any applicable city requirements, including codes and ordinances.

(d) The district may not provide, conduct, or authorize any improvement project on the city streets, highways, rights-of-way, or easements without the consent of the governing body of the city.

(e) The district shall immediately comply with any city ordinance, order, or resolution that:

(1) requires the district to transfer to the city the title to all or any portion of an improvement project; or

(2) authorizes the district to own, encumber, maintain, and operate an improvement project, subject to the right of the city to order a conveyance of the project to the city on a date determined by the city.

(f) For the purposes of this section, planning, design, construction, improvement, and maintenance of a lake include work done for drainage, reclamation, or recreation.

Sec. 3895.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3895.104. GENERAL POWERS REGARDING CONTRACTS. (a) The district may:

(1) contract with any person to accomplish any district purpose, including a contract for:

(A) the payment, repayment, or reimbursement of costs incurred by that person on behalf of the district, including all or part of the costs of an improvement project and interest on the reimbursed cost; or

(B) the use, occupancy, lease, rental, operation, maintenance, or management of all or part of a proposed or existing improvement project; and

(2) apply for and contract with any person to receive, administer, and perform a duty or obligation of the district under a federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing improvement project.

(b) A contract the district enters into to carry out a purpose of this chapter may be on any terms and for any period the board determines, including a negotiable or nonnegotiable note or warrant payable to the city, Dallas County, and any other person.

(c) Any person may contract with the district to carry out the purposes of this chapter without further statutory or other authorization.

(d) A contract payable from ad valorem taxes for a period longer than one year must be approved by the governing body of the city.

Sec. 3895.105. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies only to a district contract that has a value of more than \$50,000.

Sec. 3895.106. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality; and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3895.107. RULES; ENFORCEMENT. (a) The district may adopt rules:

(1) to administer or operate the district;

(2) for the use, enjoyment, availability, protection, security, and maintenance of the district's property and facilities; or

(3) to provide for public safety and security in the district.

(b) The district may enforce its rules by injunctive relief.

(c) To the extent a district rule conflicts with a city rule or order, the city rule or order controls.

Sec. 3895.108. NAME CHANGE. The board by resolution may change the district's name. The board shall give written notice of the change to the city.

Sec. 3895.109. ADDING OR REMOVING TERRITORY. The board may add or remove territory under Subchapter J, Chapter 49, and Section 54.016, Water Code, except that:

(1) the addition or removal of the territory must be approved by:

(A) the governing body of the city; and

(B) the owners of the territory being added or removed;

(2) a reference to a tax in Subchapter J, Chapter 49, or Section 54.016, Water Code, means an ad valorem tax; and

(3) territory may not be removed from the district if bonds or other obligations of the district payable wholly or partly from ad valorem taxes on the territory are outstanding.

Sec. 3895.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 3895.111. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

Sec. 3895.112. DISTRICT EMPLOYEES; TERMS OF EMPLOYMENT; COMPENSATION. The board may employ and establish the terms of employment and compensation of:

(1) an executive director or general manager; or

(2) any other district employee the board considers necessary.

[Sections 3895.113-3895.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3895.151. GENERAL POWERS REGARDING FINANCIAL MATTERS. Except as provided by Section 3895.161, the district may:

(1) impose an ad valorem tax on all taxable property in the district, including industrial, commercial, and residential property, to pay for an improvement project;

(2) impose an assessment on property in the district in the manner provided for:

(A) a district under Subchapter F, Chapter 375, Local Government Code; or

(B) a municipality or county under Subchapter A, Chapter 372, Local Government Code;

(3) provide or secure the payment or repayment of the costs and expenses of the establishment, administration, and operation of the district and the district's costs or share of the costs or revenue of an improvement project or district contractual obligation or indebtedness by or through:

(A) a lease, installment purchase contract, or other agreement with any person;

(B) the imposition of a tax, assessment, user fee, concession fee, or rental charge; or

(C) any other revenue or resource of the district;

(4) establish user charges related to the operation of storm-water facilities, including the regulation of storm water for the protection of water quality in the district;

(5) establish user charges for the use of nonpotable water for irrigation purposes, subject to the approval of the governing body of the city;

(6) undertake separately or jointly with other persons, including the city or Dallas County, all or part of the cost of an improvement project, including an improvement project:

(A) for improving, enhancing, and supporting public safety and security, fire protection and emergency medical services, and law enforcement in and adjacent to the district; or

(B) that confers a general benefit on the entire district or a special benefit on a definable part of the district; and

(7) enter into a tax abatement agreement in accordance with the general laws of this state authorizing and applicable to tax abatement agreements by municipalities.

Sec. 3895.152. BORROWING MONEY. The district may borrow money for a district purpose by issuing or executing bonds, notes, credit agreements, or other obligations of any kind found by the board to be necessary or appropriate for the district purpose. The bond, note, credit agreement, or other obligation must be secured by and payable from ad valorem taxes, assessments, or other district revenue.

Sec. 3895.153. IMPACT FEES AND ASSESSMENTS; EXEMPTION. (a) The district may impose an impact fee or assessment on property in the district, including an impact fee or assessment on residential or commercial property, only in the manner provided by Subchapter A, Chapter 372, or Subchapter F, Chapter 375, Local Government Code, for a municipality, county, or public improvement district, according to the benefit received by the property.

(b) An impact fee for residential property must be for the limited purpose of providing capital funding for:

- (1) public water and wastewater facilities;
- (2) drainage and storm-water facilities; and
- (3) streets and alleys.

(c) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, or an expense of collection of an assessment, including reasonable attorney's fees, incurred by the district:

- (1) is a first and prior lien against the property assessed; and
- (2) is superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

(e) The district may not impose an impact fee on the property, including equipment and facilities, of a public utility provider in the district.

Sec. 3895.154. CERTAIN RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

Sec. 3895.155. MAINTENANCE AND OPERATION TAX; ELECTION. (a) Except as provided by Section 3895.161, the district may impose a tax for maintenance and operation purposes, including for:

- (1) planning, constructing, acquiring, maintaining, repairing, and operating all improvement projects, including land, plants, works, facilities, improvements, appliances, and equipment of the district; and
- (2) paying costs of services, engineering and legal fees, and organization and administrative expenses.

(b) The district may not impose a maintenance and operation tax unless the maximum tax rate is approved by the governing body of the city and a majority of the district voters voting at an election held for that purpose. If the maximum tax rate is approved, the board may impose the tax at any rate that does not exceed the approved rate.

(c) A maintenance and operation tax election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) The proposition in a maintenance and operation tax election may be for a specific maximum rate.

Sec. 3895.156. USE OF SURPLUS MAINTENANCE AND OPERATION MONEY. If the district has surplus maintenance and operation tax money that is not needed for the purposes for which it was collected, the money may be used for any authorized purpose.

Sec. 3895.157. BOND ISSUANCE PLAN REQUIRED BEFORE ISSUING BONDS. The district may not issue bonds until the governing body of the city approves a bond issuance plan authorizing and setting forth the limitations on the issuance of the bonds.

Sec. 3895.158. BONDS AND OTHER OBLIGATIONS; MUNICIPAL APPROVAL. (a) Except as provided by Sections 3895.157 and 3895.161, the district may issue, by competitive bid or negotiated sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the net proceeds the district receives from any other district revenue.

Sec. 3895.159. BOND MATURITY. Bonds must mature not more than 40 years from their date of issue.

Sec. 3895.160. TAXES FOR BONDS AND OTHER OBLIGATIONS. (a) At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

(b) Bonds or other obligations that are secured by and payable from ad valorem taxes may not be issued unless the bonds and the imposition of the taxes are approved by:

(1) a majority of the district voters voting at an election held for that purpose; and

(2) the governing body of the city.

(c) The district shall hold an election required by this section in the manner provided by Chapter 54, Water Code.

Sec. 3895.161. PROJECT DEVELOPMENT AGREEMENT REQUIRED TO IMPOSE TAXES OR BORROW MONEY, INCLUDING BONDS. Before the district may issue bonds, impose taxes, or borrow money, the district and the city must negotiate and execute a mutually approved and accepted interlocal project development agreement regarding the development plans and rules for:

(1) the development and operation of the district; and

(2) the financing of improvement projects.

Sec. 3895.162. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

[Sections 3895.163-3895.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3895.201. DISSOLUTION BY CITY ORDINANCE. (a) If the city adopts by a two-thirds vote of its governing body an ordinance to dissolve the district, the district is dissolved.

(b) The district may not be dissolved until the district's outstanding indebtedness or contractual obligations payable from ad valorem taxes have been repaid or discharged.

(c) The district may not be dissolved until any agreement under Section 3895.161 has been executed and the district's performance under the agreement has been fulfilled, including any right or obligation the district has to reimburse a developer or owner for the costs of improvement projects.

Sec. 3895.202. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than ad valorem taxes, the city succeeds to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) If the district is dissolved, the city has and may exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3895.203. ASSUMPTION OF ASSETS AND LIABILITIES. (a) The district may not be dissolved by the city unless the city assumes the obligations of the district, including any bonds or other indebtedness payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. The Rowlett Pecan Grove Management District initially includes all territory contained in the following area:

TRACT 1: BEING Lots 1 and 2, in Block A of Pecan Grove Park Addition, an Addition to the City of Rowlett, Dallas County, Texas, according to the Map thereof recorded under cc#200600238026, Real Property Records of Dallas County, Texas; and

TRACT 2: BEING all that certain lot, tract or parcel of land situated in the Thomas Lumley Survey, Abstract No. 789, City of Rowlett, Dallas County, Texas, and being a part of a 87.934 acres tract of land as described in a Special Warranty deed from Garland Independent School District to City of Rowlett, dated August 27, 1997 and being recorded in Volume 97175, Page 1103 of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 3/8" iron rod found for corner in the east right-of-way line of Kirby Road (variable width right-of-way) and in the meanders of a creek, said point being at the west most northwest corner of said 87.934 acres tract and at the southwest corner of Lot 1, Block A, Rowlett High School, an Addition to the City of Rowlett, Texas, according to the Map thereof recorded in Volume 94179, Page 1344 of the Map Records of Dallas County, Texas;

THENCE in an easterly direction along the south line of said Addition and generally along the meanders of said creek as follows:

- S. 26 deg. 27 min. 49 sec. E. a distance of 111.48 feet;
- N. 70 deg. 10 min. 55 sec. E. a distance of 260.00 feet;
- S. 79 deg. 19 min. 59 sec. E. a distance of 195.00 feet;
- N. 81 deg. 03 min. 35 sec. E. a distance of 110.00 feet;
- S. 51 deg. 03 min. 57 sec. E. a distance of 60.00 feet;
- N. 79 deg. 18 min. 55 sec. E. a distance of 175.00 feet;
- S. 38 deg. 56 min. 57 sec. E. a distance of 142.00 feet;
- N. 57 deg. 52 min. 19 sec. E. a distance of 115.00 feet;
- S. 15 deg. 11 min. 06 sec. E. a distance of 108.00 feet;
- S. 19 deg. 47 min. 39 sec. W. a distance of 106.00 feet;
- S. 78 deg. 40 min. 34 sec. E. a distance of 335.00 feet;
- S. 13 deg. 24 min. 39 sec. E. a distance of 92.20 feet;

THENCE N. 59 deg. 02 min. 24 sec. E. leaving the meanders of said creek and continuing along the south line of said Addition, a distance of 219.48 feet to a 1/2" iron rod found for corner at the southeast corner of said Addition and being in the west line of a 100 foot T.P. & L. Co. easement as recorded in Volume 67115, Page 202 of the Deed Records of Dallas County, Texas;

THENCE N. 00 deg. 55 min. 24 sec. W. along the east line of said Addition, a distance of 500.14 feet to a 5/8" iron rod found for corner at the southwest corner of Lot 2, Block A, of Pecan Grove Park Addition, an Addition to the City of Rowlett, Dallas County, Texas, according to the Map thereof recorded under cc#200600238026, Real Property Records of Dallas County, Texas;

THENCE N. 89 deg. 04 min. 17 sec. E. along the south line of said Lot 2, a distance of 936.07 feet to a 5/8" iron rod found for corner at the southeast corner of Lot 2 and the south most southwest corner of said Lot 1;

THENCE N. 68 deg. 17 min. 12 sec. E. along the southeast line of said Lot 1, a distance of 800.60 feet to a 5/8" iron rod found for corner in the southwest right-of-way line of Dallas Area Rapid Transit (100' R.O.W.)

THENCE S. 45 deg. 29 min. 56 sec. E. along said right-of-way line, a distance of 97.69 feet to a 1/2" iron rod found for corner in the west take line of the City of Dallas for Lake Ray Hubbard as recorded in Volume 69061, Page 970 of the Deed Records of Dallas County, Texas;

THENCE S. 18 deg. 04 min. 52 sec. E. along said take line, a distance of 338.92 feet to a concrete monument with brass disk marked "City of Dallas Water Dept. U-10-2" found for corner;

THENCE S. 02 deg. 36 min. 36 sec. E. along said take line, a distance of 502.17 feet to a concrete monument with brass disk marked "City of Dallas Water Dept. U-6-2" found for corner;

THENCE S. 19 deg. 09 min. 28 sec. W. along said take line, a distance of 477.18 feet to a broken concrete monument with brass disk marked "City of Dallas Water Dept. U-6-1" found for corner;

THENCE S. 89 deg. 19 min. 30 sec. W. along the north line of a 2.29 acres tract as described in a Deed to Singh Lalsingh Sanker, as recorded in Volume 87085, Page 4639 of the Deed Records of Dallas County, Texas, a distance of 705.12 feet to a 1/2" iron rod found for corner in the east right-of-way line of Miller Heights Drive (60' R.O.W.);

THENCE N. 02 deg. 54 min. 52 sec. E., along said right-of-way line, a distance of 10.12 feet to a 1/2" iron rod found for corner;

THENCE S. 89 deg. 18 min. 25 sec. W. along said right-of-way line, a distance of 2546.89 feet to a 1/2" iron rod found for corner in the east right-of-way line of Kirby Road and being at the southwest corner of said 87.934 acres tract;

THENCE N. 00 deg. 54 min. 25 sec. W. along said right-of-way line, a distance of 569.41 feet to a 1/2" iron rod found for corner;

THENCE N. 05 deg. 30 min. 22 sec. E. along said right-of-way line, a distance of 200.25 feet to a 1/2" iron rod found for corner;

THENCE N. 00 deg. 57 min. 36 sec. W. along said right-of-way line, a distance of 123.69 feet to the POINT OF BEGINNING and containing 3,171.925 square feet or 72.82 acres of land.

SECTION 3. (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, one of the required recipients, 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) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) 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 have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 233**.

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

SENATE BILL 234 WITH HOUSE AMENDMENT

Senator Deuell called **SB 234** 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 234** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the creation of the Rowlett Downtown Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3894 to read as follows:

CHAPTER 3894. ROWLETT DOWNTOWN MANAGEMENT DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3894.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of Rowlett, Texas.
- (3) "Director" means a member of the board.
- (4) "District" means the Rowlett Downtown Management District.
- (5) "Improvement project" means any program or project authorized by

Section 3894.102, inside or outside the district.

Sec. 3894.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3894.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city or Dallas County from providing the level of services provided to the area in the district as of the effective date of the Act enacting this chapter. The district is created to supplement and not to supplant the city and county services provided in the district.

Sec. 3894.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

- (1) developing and diversifying the economy of the state;
- (2) eliminating unemployment and underemployment; and
- (3) developing or expanding transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, potential employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3894.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act creating this chapter, as that territory may have been modified under Section 3894.109 or other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act creating this chapter form a closure. A mistake in the field notes of the district contained in Section 2 of the Act creating this chapter or in copying the field notes in the legislative process does not in any way affect the district's:

- (1) organization, existence, or validity;
- (2) right to contract, including the right to issue any type of bond or other obligation for a purpose for which the district is created;
- (3) right to impose or collect an assessment, tax, or any other revenue; or
- (4) legality or operation.

Sec. 3894.006. ELIGIBILITY FOR REINVESTMENT OR ENTERPRISE ZONES. (a) All or any part of the area of the district is eligible, regardless of other statutory criteria, to be included in:

(1) a tax increment reinvestment zone created by the city under Chapter 311, Tax Code; or

(2) a tax abatement reinvestment zone created by the city under Chapter 312, Tax Code.

(b) All or any part of the area of the district is eligible to be nominated for inclusion in an enterprise zone by the city under Chapter 2303, Government Code.

Sec. 3894.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3894.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3894.009-3894.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3894.051. BOARD OF DIRECTORS. The district is governed by a board of five directors appointed under Section 3894.052 and three directors serving ex officio under Section 3894.053.

Sec. 3894.052. APPOINTMENT OF DIRECTORS; TERMS. (a) The mayor and governing body of the city shall appoint voting directors. A person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person. A member of the governing body of the city may not be appointed to the board.

(b) Section 375.063, Local Government Code, does not apply to the district.

(c) The appointed directors serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(d) A person may not be appointed to the board if the appointment of that person would result in fewer than three of the directors residing in the city.

(e) The governing body of the city shall appoint a director to fill a vacancy that occurs on the board.

(f) District directors are public officials entitled to governmental immunity for their official actions.

Sec. 3894.053. NONVOTING DIRECTORS. (a) The following persons serve as nonvoting ex officio directors:

(1) the manager of the city;

(2) the financial director of the city; and

(3) the planning director of the city.

(b) If an office described by Subsection (a) is renamed, changed, or abolished, the governing body of the city may appoint another city officer or employee who performs duties comparable to those performed by the officer described by Subsection (a).

Sec. 3894.054. CONFLICTS OF INTEREST. (a) Except as provided by Section 3894.053 or this section:

(1) a director may participate in all board votes and decisions; and

(2) Chapter 171, Local Government Code, governs conflicts of interest of board members.

(b) A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in a discussion of or vote on a matter regarding a contract with that same public entity.

Sec. 3894.055. DIRECTOR'S OATH OR AFFIRMATION. A director's oath or affirmation of office shall be filed with the district and the district shall retain the oath or affirmation in the district records.

Sec. 3894.056. OFFICERS. The board shall elect from among the directors a chair, vice chair, and secretary.

Sec. 3894.057. COMPENSATION OF DIRECTORS; REIMBURSEMENT OF EXPENSES. A director is not entitled to compensation for service on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

Sec. 3894.058. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

- (1) _____ ;
- (2) _____ ;
- (3) _____ ;
- (4) _____ ; and
- (5) _____ .

(b) Of the initial directors, the terms of directors appointed for positions 1 and 2 expire June 1, 2013, and the terms of directors appointed for positions 3 through 5 expire June 1, 2015.

(c) This section expires September 1, 2015.

Sec. 3894.059. QUORUM. For purposes of determining whether a quorum of the board is present, the following are not counted:

- (1) a board position vacant for any reason, including death, resignation, or disqualification;
- (2) a director who is abstaining from participation in a vote because of a conflict of interest; or
- (3) a nonvoting director.

[Sections 3894.060-3894.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3894.101. GENERAL POWERS AND DUTIES. The district has the powers and duties provided by:

- (1) the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code;
- (2) the general laws relating to road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapter 441, Transportation Code; and
- (3) Chapter 375, Local Government Code.

Sec. 3894.102. IMPROVEMENT PROJECTS. (a) The district may provide, or it may enter into contracts with a governmental or private entity to provide, the following types of improvement projects or activities in support of or incidental to those projects:

(1) a supply and distribution facility or system to provide potable and city-approved nonpotable water to the residents and businesses of the district, including a wastewater collection facility;

(2) a paved road or street, inside and outside the district, to the extent authorized by Section 52, Article III, Texas Constitution;

(3) the planning, design, construction, improvement, and maintenance of:

(A) landscaping;

(B) highway right-of-way or transit corridor beautification and improvement;

(C) lighting, banners, and signs;

(D) a street or sidewalk;

(E) a hiking and cycling path or trail;

(F) a pedestrian walkway, skywalk, crosswalk, or tunnel;

(G) a park, lake, garden, recreational facility, sports facility, open space, scenic area, or related exhibit or preserve;

(H) a fountain, plaza, or pedestrian mall; or

(I) a drainage or storm-water detention improvement;

(4) protection and improvement of the quality of storm water that flows through the district;

(5) the planning, design, construction, improvement, maintenance, and operation of:

(A) a water or sewer facility; or

(B) an off-street parking facility or heliport;

(6) the planning and acquisition of:

(A) public art and sculpture and related exhibits and facilities; or

(B) an educational and cultural exhibit or facility;

(7) the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:

(A) a conference, convention, or exhibition;

(B) a manufacturer, consumer, or trade show;

(C) a civic, community, or institutional event; or

(D) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday;

(8) the removal, razing, demolition, or clearing of land or improvements in connection with an improvement project;

(9) the acquisition and improvement of land or other property for the mitigation of the environmental effects of an improvement project;

(10) the acquisition of property or an interest in property in connection with an authorized improvement project;

(11) a special or supplemental service for the improvement and promotion of the district or an area adjacent to the district or for the protection of public health and safety in or adjacent to the district, including:

(A) advertising;

(B) promotion;

(C) tourism;

(D) health and sanitation;

(E) public safety;

(F) security;

(G) fire protection or emergency medical services;

(H) business recruitment;

(I) development;

(J) elimination of traffic congestion; and

(K) recreational, educational, or cultural improvements, enhancements,

and services; or

(12) any similar public improvement, facility, or service.

(b) The district may not undertake an improvement project under this section unless the board determines the project to be necessary to accomplish a public purpose of the district.

(c) An improvement project must comply with any applicable city requirements, including codes and ordinances.

(d) The district may not provide, conduct, or authorize any improvement project on the city streets, highways, rights-of-way, or easements without the consent of the governing body of the city.

(e) The district shall immediately comply with any city ordinance, order, or resolution that:

(1) requires the district to transfer to the city the title to all or any portion of an improvement project; or

(2) authorizes the district to own, encumber, maintain, and operate an improvement project, subject to the right of the city to order a conveyance of the project to the city on a date determined by the city.

(f) For the purposes of this section, planning, design, construction, improvement, and maintenance of a lake include work done for drainage, reclamation, or recreation.

Sec. 3894.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3894.104. GENERAL POWERS REGARDING CONTRACTS. (a) The district may:

(1) contract with any person to accomplish any district purpose, including a contract for:

(A) the payment, repayment, or reimbursement of costs incurred by that person on behalf of the district, including all or part of the costs of an improvement project and interest on the reimbursed cost; or

(B) the use, occupancy, lease, rental, operation, maintenance, or management of all or part of a proposed or existing improvement project; and

(2) apply for and contract with any person to receive, administer, and perform a duty or obligation of the district under a federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, or other financial assistance arrangement

relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing improvement project.

(b) A contract the district enters into to carry out a purpose of this chapter may be on any terms and for any period the board determines, including a negotiable or nonnegotiable note or warrant payable to the city, Dallas County, and any other person.

(c) Any person may contract with the district to carry out the purposes of this chapter without further statutory or other authorization.

(d) A contract payable from ad valorem taxes for a period longer than one year must be approved by the governing body of the city.

Sec. 3894.105. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies only to a district contract that has a value of more than \$50,000.

Sec. 3894.106. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

- (1) Chapter 380, Local Government Code, provides to a municipality; and
- (2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3894.107. RULES; ENFORCEMENT. (a) The district may adopt rules:

- (1) to administer or operate the district;
- (2) for the use, enjoyment, availability, protection, security, and maintenance of the district's property and facilities; or
- (3) to provide for public safety and security in the district.

(b) The district may enforce its rules by injunctive relief.

(c) To the extent a district rule conflicts with a city rule or order, the city rule or order controls.

Sec. 3894.108. NAME CHANGE. The board by resolution may change the district's name. The board shall give written notice of the change to the city.

Sec. 3894.109. ADDING OR REMOVING TERRITORY. The board may add or remove territory under Subchapter J, Chapter 49, and Section 54.016, Water Code, except that:

- (1) the addition or removal of the territory must be approved by:
 - (A) the governing body of the city; and
 - (B) the owners of the territory being added or removed;

(2) a reference to a tax in Subchapter J, Chapter 49, or Section 54.016, Water Code, means an ad valorem tax; and

(3) territory may not be removed from the district if bonds or other obligations of the district payable wholly or partly from ad valorem taxes on the territory are outstanding.

Sec. 3894.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 3894.111. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

Sec. 3894.112. DISTRICT EMPLOYEES; TERMS OF EMPLOYMENT; COMPENSATION. The board may employ and establish the terms of employment and compensation of:

- (1) an executive director or general manager; or
- (2) any other district employee the board considers necessary.

[Sections 3894.113-3894.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3894.151. GENERAL POWERS REGARDING FINANCIAL MATTERS.

Except as provided by Section 3894.161, the district may:

(1) impose an ad valorem tax on all taxable property in the district, including industrial, commercial, and residential property, to pay for an improvement project;

(2) impose an assessment on property in the district in the manner provided for:

(A) a district under Subchapter F, Chapter 375, Local Government Code; or

(B) a municipality or county under Subchapter A, Chapter 372, Local Government Code;

(3) provide or secure the payment or repayment of the costs and expenses of the establishment, administration, and operation of the district and the district's costs or share of the costs or revenue of an improvement project or district contractual obligation or indebtedness by or through:

(A) a lease, installment purchase contract, or other agreement with any person;

(B) the imposition of a tax, assessment, user fee, concession fee, or rental charge; or

(C) any other revenue or resource of the district;

(4) establish user charges related to the operation of storm-water facilities, including the regulation of storm water for the protection of water quality in the district;

(5) establish user charges for the use of nonpotable water for irrigation purposes, subject to the approval of the governing body of the city;

(6) undertake separately or jointly with other persons, including the city or Dallas County, all or part of the cost of an improvement project, including an improvement project:

(A) for improving, enhancing, and supporting public safety and security, fire protection and emergency medical services, and law enforcement in and adjacent to the district; or

(B) that confers a general benefit on the entire district or a special benefit on a definable part of the district; and

(7) enter into a tax abatement agreement in accordance with the general laws of this state authorizing and applicable to tax abatement agreements by municipalities.

Sec. 3894.152. BORROWING MONEY. The district may borrow money for a district purpose by issuing or executing bonds, notes, credit agreements, or other obligations of any kind found by the board to be necessary or appropriate for the district purpose. The bond, note, credit agreement, or other obligation must be secured by and payable from ad valorem taxes, assessments, or other district revenue.

Sec. 3894.153. IMPACT FEES AND ASSESSMENTS; EXEMPTION. (a) The district may impose an impact fee or assessment on property in the district, including an impact fee or assessment on residential or commercial property, only in the manner provided by Subchapter A, Chapter 372, or Subchapter F, Chapter 375, Local Government Code, for a municipality, county, or public improvement district, according to the benefit received by the property.

(b) An impact fee for residential property must be for the limited purpose of providing capital funding for:

- (1) public water and wastewater facilities;
- (2) drainage and storm-water facilities; and
- (3) streets and alleys.

(c) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, or an expense of collection of an assessment, including reasonable attorney's fees, incurred by the district:

- (1) is a first and prior lien against the property assessed; and
- (2) is superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

(e) The district may not impose an impact fee on the property, including equipment and facilities, of a public utility provider in the district.

Sec. 3894.154. CERTAIN RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

Sec. 3894.155. MAINTENANCE AND OPERATION TAX; ELECTION. (a) Except as provided by Section 3894.161, the district may impose a tax for maintenance and operation purposes, including for:

- (1) planning, constructing, acquiring, maintaining, repairing, and operating all improvement projects, including land, plants, works, facilities, improvements, appliances, and equipment of the district; and
- (2) paying costs of services, engineering and legal fees, and organization and administrative expenses.

(b) The district may not impose a maintenance and operation tax unless the maximum tax rate is approved by the governing body of the city and a majority of the district voters voting at an election held for that purpose. If the maximum tax rate is approved, the board may impose the tax at any rate that does not exceed the approved rate.

(c) A maintenance and operation tax election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) The proposition in a maintenance and operation tax election may be for a specific maximum rate.

Sec. 3894.156. USE OF SURPLUS MAINTENANCE AND OPERATION MONEY. If the district has surplus maintenance and operation tax money that is not needed for the purposes for which it was collected, the money may be used for any authorized purpose.

Sec. 3894.157. BOND ISSUANCE PLAN REQUIRED BEFORE ISSUING BONDS. The district may not issue bonds until the governing body of the city approves a bond issuance plan authorizing and setting forth the limitations on the issuance of the bonds.

Sec. 3894.158. BONDS AND OTHER OBLIGATIONS; MUNICIPAL APPROVAL. (a) Except as provided by Sections 3894.157 and 3894.161, the district may issue, by competitive bid or negotiated sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the net proceeds the district receives from any other district revenue.

Sec. 3894.159. BOND MATURITY. Bonds may mature not more than 40 years from their date of issue.

Sec. 3894.160. TAXES FOR BONDS AND OTHER OBLIGATIONS. (a) At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

(b) Bonds or other obligations that are secured by and payable from ad valorem taxes may not be issued unless the bonds and the imposition of the taxes are approved by:

(1) a majority of the district voters voting at an election held for that purpose; and

(2) the governing body of the city.

(c) The district shall hold an election required by this section in the manner provided by Chapter 54, Water Code.

Sec. 3894.161. PROJECT DEVELOPMENT AGREEMENT REQUIRED TO IMPOSE TAXES OR BORROW MONEY, INCLUDING BONDS. Before the district may issue bonds, impose taxes, or borrow money, the district and the city must negotiate and execute a mutually approved and accepted interlocal project development agreement regarding the development plans and rules for:

(1) the development and operation of the district; and

(2) the financing of improvement projects.

Sec. 3894.162. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

[Sections 3894.163-3894.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3894.201. DISSOLUTION BY CITY ORDINANCE. (a) If the city by ordinance adopts by a two-thirds vote of its governing body an ordinance to dissolve the district, the district is dissolved.

(b) The district may not be dissolved until the district's outstanding indebtedness or contractual obligations payable from ad valorem taxes have been repaid or discharged.

(c) The district may not be dissolved until the agreement under Section 3894.161 has been executed and the district's performance under the agreement has been fulfilled, including any right or obligation the district has to reimburse a developer or owner for the costs of improvement projects.

Sec. 3894.202. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than ad valorem taxes, the city succeeds to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) If the district is dissolved, the city has and may exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3894.203. ASSUMPTION OF ASSETS AND LIABILITIES. (a) The district may not be dissolved by the city unless the city assumes the obligations of the district, including any bonds or other indebtedness payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. The Rowlett Downtown Management District initially includes all territory contained in the following area:

BEING approximately 19 acres of land located in the Thomas Payne Survey, Abstract No. 1165, and approximately 19 acres of land located in the William Crabtree Survey, Abstract No. 347, City of Rowlett, Dallas County, Texas. Said 38 combined acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron pipe found in the South boundary line of said Payne Survey, and the North boundary line of said Crabtree Survey, at the point of intersection of said Survey line with the South right-of-way line of The Dallas Area Rapid Transit railroad, and said Point Of Beginning also being the West corner of the tract of land conveyed to the City of Rowlett by the deed recorded in Volume 2004067, page 04282 of the Deed Records of Dallas County, Texas;

THENCE Northeasterly, approximately 166 feet, along the South right-of-way line of said Dallas Area Rapid Transit railroad to a point at the intersection of the West right-of-way line of Commerce Street;

THENCE Northeasterly, approximately 114 feet, crossing said Dallas Area Rapid Transit railroad to a point in the North right-of-way line of said railroad, lying at the most Southerly Southeast corner of Lot 5, Block 5, Rowlett Business Park, No. 2, an addition to the City of Rowlett, Dallas County, Texas, according to the plat recorded in Volume 82015, page 1127 of the Deed Records of Dallas County, Texas;

THENCE Northerly, approximately 155 feet, along the most Southerly East boundary line of said Lot 5, and the West boundary line of the tract of land conveyed to the City of Rowlett by the deed recorded in Volume 99034, page 4307 of the Deed Records of Dallas County, Texas, to a point at the Northwest corner of said City of Rowlett tract, being the Southwest corner of the tract of land conveyed to the City of Rowlett by the deed recorded in Volume 99083, page 2213 of the Deed Records of Dallas County, Texas;

THENCE Northerly, approximately 285 feet, along the West boundary line of said City of Rowlett tract recorded in Volume 99083, page 2213 of the Deed Records of Dallas County, Texas, to a point in the North right-of-way line of Melcer Drive;

THENCE Easterly, approximately 837 feet, along the North right-of-way line of said Melcer Drive, to a point in the West right-of-way line of Martin Drive;

THENCE Northerly, approximately 820 feet, along the West right-of-way line of said Martin Drive, to a point in the South right-of-way line of Lakeview Parkway;

THENCE Easterly, approximately 195 feet, along the South right-of-way line of said Lakeview Parkway, to a point at the Northeast corner of Lot 1, Block 1, Carlisle Subdivision, an addition to the City of Rowlett, Dallas County, Texas, according to the plat recorded in Volume 85081, page 1854 of the Deed Records of Dallas County, Texas;

THENCE Southerly, approximately 201 feet along the East boundary line of said Lot 1, Block 1, Carlisle Subdivision, to a point at the Southeast corner of said Lot 1;

THENCE Westerly, approximately 145 feet along the South boundary line of said Lot 1, Block 1, Carlisle Subdivision, to a point in the East right-of-way line of aforesaid Martin Drive;

THENCE Southerly, approximately 217 feet, along the East right-of-way line of said Martin Drive, to a point in the North right-of-way line of Industrial Street;

THENCE Easterly, approximately 1,251 feet along the North right-of-way line of said Industrial Street, being the South boundary line of Block 3, of aforesaid Rowlett Business Park, No. 2, to a point at the most Easterly Southeast corner of Lot 11 of said Block 3, Rowlett Business Park No. 2;

THENCE Southerly, approximately 544 feet, crossing said Industrial Street, and running along the East boundary line of Lot 24, of Block 5 of said Rowlett Business Park No. 2, to a point at the Southeast corner of said Lot 24, lying in the North right-of-way line of aforesaid Dallas Area Rapid Transit railroad;

THENCE Southwesterly, approximately 453 feet, along the North right-of-way line of said Dallas Area Rapid Transit railroad, and the South boundary line of said Block 5, Rowlett Business Park No. 2, to a point at the Southwest corner of Lot 22 of said Block 5, Rowlett Business Park No. 2;

THENCE Northerly, approximately 522 feet, along the West boundary line of said Lot 22, Block 5, Rowlett Business Park No. 2, to a point at the Northwest corner of said Lot 22, lying in the South right-of-way line of aforesaid Industrial Street;

THENCE Westerly, approximately 420 feet, along the South right-of-way line of said Industrial Street, and the North boundary line of said Block 5, Rowlett Business Park No. 2, to a point at the Northeast corner of Lot 18 of said Block 5, Rowlett Business Park No. 2;

THENCE Southerly, approximately 625 feet, along the East boundary line of said Lot 18, Block 5, Rowlett Business Park No. 2, to a point at the Southeast corner of said Lot 18, lying in the North right-of-way line of aforesaid Dallas Area Rapid Transit railroad;

THENCE along the North right-of-way line of said Dallas Area Rapid Transit railroad as follows:

1. Southwesterly, approximately 377 feet, along the South boundary line of Lot 14, and 18, of said Block 5, Rowlett Business Park No. 2, to a point at the Southwest corner of said Lot 14, lying in the East boundary line of Lot 13, of said Block 5;
2. Southeasterly, approximately 25 feet, along the East boundary line of said Lot 13, Block 5, to a point at the Southeast corner of said Lot 13;
3. Southwesterly, approximately 343 feet, along the South boundary line of Lots 11, 12, and 13 of said Block 5, Rowlett Business Park No. 2, to a point at the Southwest corner of said Lot 11;

THENCE Northwesterly, approximately 155 feet, along the West boundary line of said Lot 11, Block 5, Rowlett Business Park No. 2, to a point in the most Northerly South boundary line of said Lot 11;

THENCE Southwesterly, approximately 11 feet, along the most Northerly South boundary line of said Lot 11, to a point at the most Westerly Southwest corner of said Lot 11;

THENCE Northerly, approximately 157 feet, along the West boundary line of said Lot 11, to a point at the Northwest corner of said Lot 11, lying in the South right-of-way line of aforesaid Melcer Drive;

THENCE Westerly, approximately 500 feet, along the South right-of-way line of said Melcer Drive, and the most Southerly, North boundary line of said Block 5, Rowlett Business Park No. 2, to a point at the Northwest corner of Lot 6 of said Block 5, being the Northeast corner of the aforesaid tract of land conveyed to the City of Rowlett by the deed recorded in Volume 99083, page 2213 of the Deed Records of Dallas County, Texas;

THENCE Southerly, approximately 226 feet, along the East boundary line of said City of Rowlett tract, and the West boundary line of said Lot 6, to a point at the Southwest corner of said Lot 6, and the Southeast corner of Lot 5, of said Block 5, Rowlett Business Park No. 2;

THENCE Southwesterly, approximately 11 feet, along the South boundary line of said Lot 5, to a point at the Northeast corner of the aforesaid tract of land conveyed to the City of Rowlett by the deed recorded in Volume 99034, page 4307 of the Deed Records of Dallas County, Texas;

THENCE Southerly, approximately 169 feet, along the East boundary line of said City of Rowlett tract recorded in Volume 99034, page 4307, and continuing to a point;

THENCE Southwesterly, approximately 97 feet, crossing the aforesaid Dallas Area Rapid Transit railroad, to a point in the South right-of-way line of said railroad, being the North boundary line of the aforesaid tract of land conveyed to the City of Rowlett by the deed recorded in Volume 2004067, page 04282 of the Deed Records of Dallas County, Texas;

THENCE Northeasterly, approximately 362 feet, along the South right-of-way line of said Dallas Area Rapid Transit railroad, and the North boundary line of said City of Rowlett tract recorded in Volume 2004067, page 04282, to a point at the Northeast corner of said City of Rowlett tract;

THENCE Southeasterly, approximately 99 feet, along the East boundary line of said City of Rowlett tract, to a point at the Southeast corner of said City of Rowlett tract, lying in the South boundary line of the tract of land conveyed to Jeffrey D. Mayhall, and wife Camille Mayhall by the deed recorded in Volume 96198, page 1273 of the Deed Records of Dallas County, Texas;

THENCE Easterly, approximately 190 feet along the South boundary line of said Mayhall tract to a point at the Southeast corner of said Mayhall tract;

THENCE Southerly, approximately 10 feet to a point in the North boundary line of Lot 1, Block B, Municipal Complex Addition, to the City of Rowlett, Dallas County, Texas according to the plat recorded in County Clerk's file No. 2006002238027 of the Deed Records of Dallas County, Texas;

THENCE Easterly, approximately 51 feet, along the North boundary line of said Lot 1, Block B, Municipal Complex Addition, to a point at the Northeast corner of said Lot 1, Block B;

THENCE Southerly, approximately 137 feet, along the East boundary line of said Lot 1, Block B, Municipal Complex Addition, to a point at the Southeast corner of said Lot 1, Block B, lying in the North right-of-way line of Main Street;

THENCE Northeasterly, approximately 482 feet, along the North right-of-way line of said Main Street, to a point in the West right-of-way line of Skyline Drive;

THENCE Southerly, approximately 87 feet, crossing said Main Street, to a point at the Northeast corner of Lot 1, Block A, Municipal Complex Addition, to the City of Rowlett, Dallas County, Texas, according to the plat recorded in Volume 95327, page 2810 of the Deed Records of Dallas County, Texas;

THENCE Southerly, approximately 425 feet, along the East boundary line of said Lot 1, Block B, Municipal Complex Addition, and the West right-of-way line of aforesaid Skyline Drive, to a point at the Southeast corner of said Lot 1, Block A, being the Northeast corner of Lot 1, Block 1, South Ridge Addition, No. 3, and addition to the City of Rowlett, Dallas County, Texas, according to the plat recorded in Volume 69117, page 2087 of the Deed Records of Dallas County, Texas;

THENCE Westerly, approximately 150 feet, along the North boundary line of said Lot 1, Block 1, South Ridge Addition, No. 3, to a point at the Northwest corner of said Lot 1, Block 1, South Ridge Addition, No. 3;

THENCE Southerly, approximately 498 feet, along the West boundary line of said Block 1, South Ridge Addition, No. 3, to a point;

THENCE Westerly, approximately 360 feet, along the North boundary line of Lot 7, Block 1, and Lot 1, Block 6 of said South Ridge Addition, No. 3, to a point;

THENCE Southerly, approximately 20 feet, to a point at the Northeast corner of Lot 2, Block 6, South Ridge Addition, No. 4, an addition to the City of Rowlett, Dallas County, Texas, according to the plat recorded in Volume 76104, page 1684 of the Deed Records of Dallas County, Texas;

THENCE Westerly, approximately 185 feet, along the North boundary line of said Lot 2, Block 6, South Ridge Addition, No. 4, to a point in the West right-of-way line of Aspen Drive;

THENCE Southerly, approximately 32 feet, along the West right-of-way line of said ASPEN DRIVE, to a point at the Northeast corner of Lot 12, Block 7 of said South Ridge Addition, No. 4;

THENCE Westerly, approximately 150 feet, along the North boundary line of said Lot 12, Block 7, South Ridge Addition, No. 4, to a point at the Northwest corner of said Lot 12, Block 7;

THENCE Northerly, approximately 740 feet, to a point at the Northwest of Lot 3, Block A, of aforesaid Municipal Complex Addition, to the City of Rowlett, Dallas County, Texas, according to the plat recorded in Volume 95237, page 2810 of the Deed Records of Dallas County, Texas;

THENCE Easterly, approximately 131 feet, along the most Southerly North boundary line of said Lot 3, Block A, Municipal Complex Addition, to a point;

THENCE Northerly, approximately 163 feet, along the most Easterly, West boundary line of said Lot 3, Block A, Municipal Complex Addition, to a point at the Northwest corner of said Lot 3, lying in the South right-of-way line of aforesaid Main Street;

THENCE Southwesterly, approximately 65 feet, along the South right-of-way line of said Main Street, to a point at the Northeast corner of Lot 43, Original Town Of Rowlett, an addition to the City of Rowlett, Dallas County, Texas, according to the plat recorded in Volume 2, page 217 of the Map Records of Dallas County, Texas;

THENCE Southerly, approximately 90 feet, along the East boundary line of said Lot 43, to a point at the Southeast corner of said Lot 43;

THENCE Westerly, approximately 50 feet, along the South boundary line of Lot 42, and 43 of said Original Town Of Rowlett, to a point at the Southwest corner of said Lot 42;

THENCE Northerly, approximately 90 feet, along the West boundary line of said Lot 42, to a point at the Northwest corner of said Lot 42, lying in the South right-of-way of aforesaid Main Street;

THENCE Westerly, approximately 300 feet, along the South right-of-way line of said Main Street, and the North boundary line of Lots 33, through 41, of said Original Town Of Rowlett, to a point in the West right-of-way line of aforesaid Commerce Street, and the East boundary line of Lot 28 of said Original Town Of Rowlett;

THENCE Northerly, approximately 262 feet, along the West right-of-way line of said Commerce Street, and the East boundary line of Lots 19, through 28, of said Original Town Of Rowlett, to a point in the North boundary line of aforesaid William Crabtree Survey, and the South boundary line of the aforesaid Thomas Payne Survey;

THENCE Westerly, approximately 164 feet, along said Survey line to the Point Of Beginning, containing approximately 38 acres of land.

The foregoing 38 acres description saves and excepts all portions thereof, and contained therein of Lots 7 through 18 of the Original Town of Rowlett, as indicated on the plat recorded in Volume 2, Page 217 of the Map Records of Dallas County, Texas.

SECTION 3. (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, one of the required recipients, 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) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) 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 have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 234**.

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

SENATE BILL 1106 WITH HOUSE AMENDMENTS

Senator Harris called **SB 1106** 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 1106** (house committee printing) as follows:

(1) Strike the recital to SECTION 3 of the bill (page 9, lines 3 and 4), and substitute the following:

SECTION 3. Section 264.408, Family Code, is amended by amending Subsection (a) and adding Subsection (d-1) as follows:

(2) In SECTION 3 of the bill, in amended Section 264.408, Family Code (page 9, between lines 16 and 17), insert the following:

(d-1) A videotaped interview described by Subsection (d) is subject to production under Article 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of Evidence. A court shall deny any request by a defendant to copy, photograph, duplicate, or otherwise reproduce a videotape of an interview described by Subsection (d), provided that the prosecuting attorney makes the videotape reasonably available to the defendant in the same manner as property or material may be made available to defendants, attorneys, and expert witnesses under Article 39.15(d), Code of Criminal Procedure.

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

SECTION _____. The changes in law made by Section 264.408, Family Code, as amended by this Act, apply to a criminal action for which the information or indictment was filed on or after the effective date of this Act. A criminal action for which the information or indictment was filed before the effective date of this Act is covered by the law in effect on the date the information or indictment was filed, and the former law is continued in effect for that purpose.

Floor Amendment No. 1 on Third Reading

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

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

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

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

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

(3) to a juvenile justice agency;

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

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

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

The amendments were read.

Senator Harris moved to concur in the House amendments to **SB 1106**.

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

HOUSE BILL 3275 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3275** at this time on its second reading:

HB 3275, Relating to the operation and governance of tax increment financing reinvestment zones.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3275** (senate committee report) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 11), strike "311.009(a), Tax Code, is amended" and substitute "311.009, Tax Code, is amended by amending Subsection (a) and adding Subsection (h)".

(2) In SECTION 1 of the bill, following amended Section 311.009(a), Tax Code (page 1, between lines 27 and 28), add the following:

(h) Notwithstanding any other provision of this section and in addition to the individuals authorized to serve on the board of directors of a zone under this section, a member of the state senate in whose district a zone is wholly or partly located, or a member of the state house of representatives in whose district a zone is wholly or partly located, may serve as an ex officio nonvoting member of the board or may designate another individual to serve in the member's place at the pleasure of the member. This subsection does not apply to the member of the state senate and the member of the state house of representatives who are members of the board as provided by Subsection (b), if applicable.

(3) In the recital to SECTION 2 of the bill (page 1, line 29), strike "Subsection (i)" and substitute "Subsections (i) and (j)".

(4) In SECTION 2 of the bill, following added Section 311.0091(i), Tax Code (page 1, between lines 42 and 43), add the following:

(j) Notwithstanding any other provision of this section and in addition to the individuals authorized to serve on the board of directors of a zone under this section, a member of the state senate in whose district a zone is wholly or partly located, or a member of the state house of representatives in whose district a zone is wholly or partly located, may serve as an ex officio nonvoting member of the board or may designate another individual to serve in the member's place at the pleasure of the

member. This subsection does not apply to the member of the state senate and the member of the state house of representatives who are members of the board as provided by Subsection (c), if applicable.

The amendment to **HB 3275** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3275** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle B, Title 3, Tax Code, is amended by adding Chapter 314 to read as follows:

CHAPTER 314. RENEWABLE ENERGY REINVESTMENT ZONES

Sec. 314.001. SHORT TITLE. This chapter may be cited as the Renewable Energy Reinvestment Zone Act.

Sec. 314.002. APPLICABILITY. The provisions of this chapter applicable to a municipality apply only to a municipality that:

- (1) has a population of at least 45,000 but not more than 60,000;
- (2) is located in a county with a population of at least one million; and
- (3) does not contain within its corporate limits:

(A) more than two school districts that are categorized as category II school districts under Section 313.022; or

(B) any school districts to which Subchapter C, Chapter 313, applies.

Sec. 314.003. DEFINITION. In this chapter, "renewable energy company" means a business organization that manufactures, assembles, sells, maintains, or conducts research on renewable energy and renewable energy efficient products, including:

- (A) solar energy;
- (B) wind energy;
- (C) biomass energy;
- (D) geothermal energy;
- (E) battery technology;
- (F) electric vehicles;
- (G) lighting using light-emitting diodes;
- (H) fuel cells;
- (I) energy generated from agricultural sources;
- (J) nuclear energy;
- (K) clean coal technology; and
- (L) water-saving devices.

Sec. 314.004. ELIGIBILITY OF MUNICIPALITY TO PARTICIPATE IN TAX ABATEMENT. (a) A municipality may not enter into a tax abatement agreement under this chapter and the governing body of a municipality may not designate an area as a renewable energy reinvestment zone unless the governing body adopts a

resolution stating that the municipality elects to become eligible to participate in tax abatement and establishes guidelines and criteria governing tax abatement agreements by the municipality. The guidelines and criteria applicable to property must provide for the availability of tax abatement only for new facilities or structures.

(b) The governing body of a municipality may not enter into a tax abatement agreement under this chapter unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body under this section.

(c) The guidelines and criteria adopted under this section are effective for two years from the date adopted. During that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body.

(d) The adoption of the guidelines and criteria by the governing body of a municipality does not:

(1) limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;

(2) limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or

(3) create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

Sec. 314.005. DESIGNATION OF ZONE. (a) The governing body of a municipality by ordinance may designate as a renewable energy reinvestment zone an area in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 314.006.

(b) The ordinance must describe the boundaries of the zone.

(c) The governing body may not adopt an ordinance designating an area as a renewable energy reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 314.008. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

(1) published in a newspaper having general circulation in the municipality;

and

(2) delivered in writing to the presiding officer of the governing body of each county and school district that includes in its boundaries real property that is to be included in the proposed renewable energy reinvestment zone.

(d) A notice made under Subsection (c)(2) is presumed delivered when placed in the mail postage prepaid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

Sec. 314.006. CRITERIA FOR RENEWABLE ENERGY REINVESTMENT ZONE. To be designated as a renewable energy reinvestment zone under this chapter, an area must meet the following requirements:

- (1) the area must be at least 100 acres in size;
- (2) at the time of the designation of the area as a zone, at least 75 percent of the land in the area must be owned by the municipality designating the area or by a municipal development corporation created under Chapter 379A, Local Government Code; and
- (3) the area must be zoned for commercial purposes.

Sec. 314.007. EXPIRATION OF REINVESTMENT ZONE. The designation of a renewable energy reinvestment zone for tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect an existing tax abatement agreement made under this chapter.

Sec. 314.008. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 314.004 may agree in writing with a renewable energy company that owns taxable real property that is located in a renewable energy reinvestment zone, but that is not located in an improvement project financed by tax increment bonds, to exempt from taxation 50 percent of the value of the real property and of tangible personal property located on the real property for a period of 15 years, on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the agreement. The governing body of an eligible municipality may agree in writing with a renewable energy company that owns a leasehold interest in tax-exempt real property that is located in a renewable energy reinvestment zone, but that is not located in an improvement project financed by tax increment bonds, to exempt 50 percent of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, and tangible personal property located on the real property, for a period of 15 years, on the condition that the company construct a facility on the property to be used in connection with the company's operations as specified by the agreement. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. In a municipality that has a comprehensive zoning ordinance, an improvement, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

(b) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

(c) Except as otherwise provided by this subsection, property that is in a renewable energy reinvestment zone and that is owned or leased by a person who is a member of the governing body of the municipality or a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement. Property owned or leased by a person that is subject to a tax abatement agreement in effect when the person becomes a member of the governing body or of

the zoning or planning board or commission does not cease to be eligible for property tax abatement under that agreement because of the person's membership on the governing body, board, or commission.

Sec. 314.009. NOTICE OF TAX ABATEMENT AGREEMENT TO COUNTIES AND SCHOOL DISTRICTS. (a) Not later than the seventh day before the date on which a municipality enters into an agreement under Section 314.008, the governing body of the municipality or a designated officer or employee of the municipality shall deliver to the presiding officer of the governing body of each county and school district in which the property to be subject to the agreement is located a written notice that the municipality intends to enter into the agreement. The notice must include a copy of the proposed agreement.

(b) A notice is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

(c) Failure to deliver the notice does not affect the validity of the agreement.

Sec. 314.010. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. An agreement made under Section 314.008 must:

(1) list the kind, number, and location of all proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees and by employees of each county and school district that approves the agreement to ensure that the improvements are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the renewable energy reinvestment zone during the period that property tax exemptions are in effect;

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement;

(5) contain each term agreed to by the owner of the property;

(6) require the owner of the property to certify annually to the governing body of the municipality and each county and school district that approves the agreement that the owner is in compliance with each applicable term of the agreement; and

(7) provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

Sec. 314.011. APPROVAL OF AGREEMENT BY GOVERNING BODY OF MUNICIPALITY. (a) To be effective, an agreement made under this chapter by a municipality must be approved by the affirmative vote of a majority of the members of the governing body of the municipality at a regularly scheduled meeting of the governing body.

(b) On approval by the governing body, an agreement may be executed in the same manner as other contracts made by the municipality.

Sec. 314.012. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this chapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 15 years from the date of the original agreement.

(b) An agreement made under this chapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed.

Sec. 314.013. TAX ABATEMENT BY COUNTY AND SCHOOL DISTRICT. (a) If municipal property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement under Section 314.008, the agreement also applies to the taxation of the property by a county or school district in which the property is located if the governing body of the county or school district approves the agreement by the affirmative vote of a majority of the members of the governing body at a regularly scheduled meeting of the governing body.

(b) A county or school district may not approve a municipal tax abatement agreement under this chapter unless the governing body of the county or school district adopts a resolution stating that the county or school district elects to become eligible to participate in tax abatement and establishes guidelines and criteria governing the approval by the county or school district of municipal tax abatement agreements. The provisions of Section 314.004 governing guidelines and criteria for the entry by a municipality into a tax abatement agreement apply to guidelines and criteria established by a county or school district for approval of a municipal tax abatement agreement to the extent those provisions can be made applicable.

SECTION ____ . Section 11.28, Tax Code, is amended to read as follows:

Sec. 11.28. PROPERTY EXEMPTED FROM [~~CITY~~] TAXATION BY AGREEMENT. (a) The owner of property to which an agreement made under Chapter 312 [~~the Property Redevelopment and Tax Abatement Act (Chapter 312 of this code)~~] applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

(b) The owner of property to which an agreement made by an incorporated city or town under Chapter 314 applies is entitled to exemption from taxation by the incorporated city or town and from taxation by a county or school district that has approved the agreement of part of the value of the property as provided by the agreement.

The amendment to **HB 3275** was read and was adopted by the following vote: Yeas 24, Nays 6.

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

Nays: Birdwell, Huffman, Jackson, Nelson, Nichols, Patrick.

Absent: Deuell.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3275** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 311.008(b), Tax Code, is amended to read as follows:

(b) A municipality or county may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means to implement project plans and sell that property on the terms and conditions and in the manner it considers advisable;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality or county to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes;

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities, but not including educational facilities; ~~or~~

(C) in a reinvestment zone created on or before September 1, 1999, acquire, construct, or reconstruct educational facilities in the municipality; or

(D) in a reinvestment zone created in a county that has a population of less than 1.5 million but in which a municipality is primarily located that has a population of at least 775,000, acquire, construct, reconstruct, renovate, rehabilitate, install, or equip public improvements used or to be used for social services programs in the zone, including improvements determined by the municipality or county to be beneficial to:

(i) providing basic necessities such as food, clothing, shelter, health care, and mental health care;

(ii) helping provide individuals and families a transition out of poverty by ensuring the availability of educational, employment, and other services that promote self-reliance;

(iii) preventing social problems through education, preventive physical and mental health programs, crime prevention programs, and other preventive programs;

(iv) providing family and societal support services, including education, child care, counseling and assistance for the aging, youth, the homeless, and the unemployed, rehabilitation services, and other similar support services; and

(v) encouraging personal development and community enrichment through cultural and educational programs.

SECTION _____. Section 311.010, Tax Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) An agreement under Subsection (b) relating to the project plan or the reinvestment zone financing plan for a reinvestment zone described by Section 311.008(b)(4)(D) may:

(1) during the term of the agreement dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay project costs relating to the cost of public improvements described by Section 311.008(b)(4)(D); or

(2) dedicate revenue from the tax increment fund to pay the costs of operating or administering programs described by Section 311.008(b)(4)(D).

(b-2) A municipality or county may not use revenue from a tax increment fund dedicated, pledged, or otherwise provided for a purpose described by Subsection (b-1) to replace revenue the municipality or county would otherwise have spent from other sources for that purpose.

The amendment to **HB 3275** was read.

On motion of Senator Shapiro, Floor Amendment No. 3 was tabled by the following vote: Yeas 17, Nays 14.

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

Nays: Davis, Ellis, Eltife, Gallegos, Hinojosa, Lucio, Rodriguez, Seliger, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 3275** by adding the following SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subsection (b), Section 431.102, Transportation Code, is amended to read as follows:

(b) The property of a local government corporation and a transaction to acquire the property is exempt from taxation in the same manner as a corporation created under Chapter 394, Local Government Code, except that property of a local government corporation created by a municipal power agency that was created under Subchapter C, Chapter 163, Utilities Code, is not exempt from ad valorem taxation if the property is located outside of the boundaries of each of the municipalities that created the municipal power agency.

The amendment to **HB 3275** was read.

Senator Seliger withdrew Floor Amendment No. 4.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 3275 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3275 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3275** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

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

Nays: Birdwell, Huffman, Nelson, Nichols, Patrick, Shapiro.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 272 ON SECOND READING**

The President laid before the Senate **CSHB 272** sponsored by Senator Carona on its second reading. The bill had been read second time, amended, and further consideration postponed:

CSHB 272, Relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.

Question — Shall **CSHB 272** as amended be passed to third reading?

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 272** (senate committee printing) as follows:

(1) In SECTION 35 of the bill, strike amended Section 2210.551(a)(1), Insurance Code (page 11, line 67 through page 12, line 1), and substitute:

(1) does not apply to:

(A) a claimant who has made a claim, as those terms are defined by Section 2210.571; or

(B) a person insured under this chapter who has elected binding arbitration offered by the association under Section 2210.553; and

(2) In SECTION 36 of the bill, in the heading to Section 2210.552, Insurance Code (page 12, line 13), strike "CLAIM" and substitute "CERTAIN [~~CLAIM~~]".

(3) In SECTION 37 of the bill, strike added Subsections 2210.552(e), Insurance Code (page 12, lines 28-44), and substitute:

(e) This subchapter provides the exclusive remedies for a claimant to resolve a dispute with the association concerning the payment of, the amount of, or the denial of a claim. A claimant may not bring an action against the association concerning the payment of, the amount of, or the denial of a claim before exhausting all remedies under Subchapter L-1 and 2210.578. If a claimant brings an action against the association concerning the payment of, the amount of, or the denial of a claim before

exhausting all remedies under that subchapter, the court shall abate the action until all remedies under that subchapter have been exhausted. For purposes of this subsection, "claim" and "claimant" have the meanings assigned by Section 2210.571.

(5) In SECTION 39 of the bill, in added Section 2210.573, Insurance Code (page 13, line 10), between "(a)" and "Not later", insert:

Subject to the good cause extension to which a claimant is entitled under Section 2210.205(b), an insured must file a claim under an association policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs.

(b)

(6) In SECTION 39 of the bill, in added Section 2210.573, Insurance Code (page 13, lines 18 and 21), reletter subsections appropriately.

(7) In SECTION 39 of the bill, between added Sections 2210.575 and 2210.576 (page 14, between lines 3 and 4), insert:

Sec. 2210.5751. EXTENSION OF CERTAIN DEADLINES. In the event of a weather-related catastrophe or major natural disaster, as defined by the commissioner, the claim-handling deadlines under Sections 2210.573, 2210.574, and 2210.575 are extended for an additional 15 days.

(8) In SECTION 39 of the bill, in added Section 2210.578(a), Insurance Code (page 15, line 7), between "aggrieved by" and "an", insert "the association's decision concerning a claim under this subchapter, including".

(9) In SECTION 39 of the bill, in added Section 2210.578(a), Insurance Code (page 15, line 9), between "Section 2210.577" and "or seeking", insert an underlined comma.

(10) In SECTION 39 of the bill, in added Section 2210.578(a), Insurance Code (page 15, line 10), between "Section 2210.575(f)" and "may bring", insert an underlined comma.

The amendment to **CSHB 272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 272 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 272 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 272** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

Senator Eltife announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 9:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

**SENATE RULE 11.10(a) SUSPENDED
(Public Notice of Committee Meetings)**

On motion of Senator Estes and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Agriculture and Rural Affairs might meet today.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 11:33 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 10:30 a.m. tomorrow.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 316**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas
May 23, 2011

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 316** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WHITMIRE
CARONA
HEGAR
HUFFMAN

On the part of the Senate

GALLEGO
HARTNETT
RODRIGUEZ

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to criminal asset forfeiture, the disposition of proceeds and property from criminal asset forfeiture, and accountability for that disposition; providing civil penalties.

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

SECTION 1. Article 59.03, Code of Criminal Procedure, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) A person in the possession of property at the time a peace officer seizes the property under this chapter may at the time of seizure assert the person's interest in or right to the property. A peace officer, including the peace officer who seizes the property, [under this chapter] may not [at the time of seizure] request, require, or in any manner induce any person, including a person who asserts an interest in or right to the property [seized], to execute a document purporting to waive the person's interest in or rights to [the] property seized under this chapter.

(e) At any time before notice is filed under Article 59.04(b), an attorney representing the state may not request, require, or in any manner induce any person, including a person who asserts an interest in or right to property seized under this chapter, to execute a document purporting to waive the person's interest in or rights to the property.

SECTION 2. Article 59.06, Code of Criminal Procedure, is amended by adding Subsections (c-2), (d-1), and (d-2) and amending Subsections (d) and (g) to read as follows:

(c-2) Any postjudgment interest from money, securities, negotiable instruments, stocks or bonds, or things of value, or proceeds from the sale of those items, that are deposited in an interest-bearing bank account under Subsection (c) shall be used for the same purpose as the principal.

(d) Proceeds awarded under this chapter to a law enforcement agency or to the attorney representing the state may be spent by the agency or the attorney after a budget for the expenditure of the proceeds has been submitted to the commissioners court or governing body of the municipality. The budget must be detailed and clearly list and define the categories of expenditures, but may not list details that would endanger the security of an investigation or prosecution. Expenditures are subject to the audit and enforcement provisions established under this chapter [article]. A commissioners court or governing body of a municipality may not use the existence of an award to offset or decrease total salaries, expenses, and allowances that the agency or the attorney receives from the commissioners court or governing body at or after the time the proceeds are awarded.

(d-1) The head of a law enforcement [the] agency or an attorney representing the state may not use proceeds or property received under this chapter to:

(1) contribute to a political campaign;
(2) make a donation to any entity, except as provided by Subsection (d-2);
(3) pay expenses related to the training or education of any member of the judiciary;

(4) pay any travel expenses related to attendance at training or education seminars if the expenses violate generally applicable restrictions established by the commissioners court or governing body of the municipality, as applicable;

(5) purchase alcoholic beverages;

(6) make any expenditure not approved by the commissioners court or governing body of the municipality, as applicable, if the head of a law enforcement agency or attorney representing the state holds an elective office and:

(A) the deadline for filing an application for a place on the ballot as a candidate for reelection to that office in the general primary election has passed and the person did not file an application for a place on that ballot; or

(B) during the person's current term of office, the person was a candidate in a primary, general, or runoff election for reelection to that office and was not the prevailing candidate in that election; or

(7) ~~the existence of an award to~~ increase a salary, expense, or allowance for an employee of the law enforcement agency or attorney representing the state ~~or agency~~ who is budgeted by the commissioners court or governing body of the municipality unless the commissioners court or governing body first approves the increase ~~expenditure~~.

(d-2) The head of a law enforcement agency or an attorney representing the state may use as an official purpose of the agency or attorney proceeds or property received under this chapter to make a donation to an entity that assists in:

(1) the detection, investigation, or prosecution of:

(A) criminal offenses; or

(B) instances of abuse, as defined by Section 261.001, Family Code;

(2) the provision of:

(A) mental health, drug, or rehabilitation services; or

(B) services for victims or witnesses of criminal offenses or instances of abuse described by Subdivision (1); or

(3) the provision of training or education related to duties or services described by Subdivision (1) or (2).

(g)(1) All law enforcement agencies and attorneys representing the state who receive proceeds or property under this chapter shall account for the seizure, forfeiture, receipt, and specific expenditure of all ~~the~~ ~~such~~ proceeds and property in an audit, which is to be performed annually by the commissioners court or governing body of a municipality, as appropriate. The annual period of the audit for a law enforcement agency is the fiscal year of the appropriate county or municipality and the annual period for an attorney representing the state is the state fiscal year. The audit must ~~shall~~ be completed on a form provided by the attorney general and must include a detailed report and explanation of all expenditures, including salaries and overtime pay, officer training, investigative equipment and supplies, and other items. Certified copies of the audit shall be delivered by the law enforcement agency or attorney representing the state to ~~the comptroller's office and~~ the attorney general not later than the 60th day after the date on which the annual period that is the subject of the audit ends.

(2) If a copy of the audit is not delivered to the attorney general within the period required by Subdivision (1), within five days after the end of the period the attorney general shall notify the law enforcement agency or the attorney representing the state of that fact. On a showing of good cause, the attorney general may grant an extension permitting the agency or attorney to deliver a copy of the audit after the period required by Subdivision (1) and before the 76th day after the date on which the annual period that is the subject of the audit ends. If the law enforcement agency or the attorney representing the state fails to establish good cause for not delivering the copy of the audit within the period required by Subdivision (1) or fails to deliver a copy of an audit within the extension period, the attorney general shall notify the comptroller of that fact.

(3) On notice under Subdivision (2) [this subdivision], the comptroller shall perform the audit otherwise required by Subdivision (1). At the conclusion of the audit, the comptroller shall forward a copy of the audit to the attorney general. The law enforcement agency or attorney representing the state is liable to the comptroller for the costs of the comptroller in performing the audit.

SECTION 3. Chapter 59, Code of Criminal Procedure, is amended by adding Articles 59.061 and 59.062 to read as follows:

Art. 59.061. AUDITS AND INVESTIGATIONS. (a) The state auditor may at any time perform an audit or conduct an investigation, in accordance with this article and Chapter 321, Government Code, related to the seizure, forfeiture, receipt, and specific expenditure of proceeds and property received under this chapter.

(b) The state auditor is entitled at any time to access any book, account, voucher, confidential or nonconfidential report, or other record of information, including electronic data, maintained under Article 59.06, except that if the release of the applicable information is restricted under state or federal law, the state auditor may access the information only with the approval of a court or federal administrative agency, as appropriate.

(c) If the results of an audit or investigation under this article indicate that a law enforcement agency or attorney representing the state has knowingly violated or is knowingly violating a provision of this chapter relating to the disposition of proceeds or property received under this chapter, the state auditor shall promptly notify the attorney general for the purpose of initiating appropriate enforcement proceedings under Article 59.062.

(d) The law enforcement agency or attorney representing the state shall reimburse the state auditor for costs incurred by the state auditor in performing an audit under this article.

Art. 59.062. ENFORCEMENT. (a) In the name of the state, the attorney general may institute in a district court in Travis County or in a county served by the law enforcement agency or attorney representing the state, as applicable, a suit for injunctive relief, to recover a civil penalty, or for both injunctive relief and a civil penalty if the results of an audit or investigation under Article 59.061 indicate that the law enforcement agency or attorney representing the state has knowingly violated or is knowingly violating a provision of this chapter relating to the disposition of proceeds or property received under this chapter.

(b) On application for injunctive relief and a finding that the law enforcement agency or attorney representing the state is knowingly violating a provision of this chapter relating to the disposition of proceeds or property received under this chapter, the district court shall grant the injunctive relief the facts may warrant, without requirement for bond.

(c) A law enforcement agency or attorney representing the state who knowingly commits a violation described by Subsection (a) is liable to the state for a civil penalty in an amount not to exceed \$100,000 as determined by the district court to be appropriate for the nature and seriousness of the violation. In determining an appropriate penalty for the violation, the court shall consider:

(1) any previous violations committed by the agency or attorney;

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(3) the demonstrated good faith of the agency or attorney; and

(4) the amount necessary to deter future violations.

(d) If the attorney general brings a suit under this article and an injunction is granted or a civil penalty is imposed, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees.

(e) Notwithstanding any other provision of this article, a law enforcement agency or attorney representing the state ordered to pay a civil penalty, expense, cost, or fee under this article shall make the payment out of money available in any fund established by the agency or attorney, as applicable, for the purpose of administering proceeds or property received under this chapter. If sufficient money is not available to make payment in full at the time the court enters an order requiring payment, the agency or attorney shall continue to make payments out of money available in any fund described by this subsection until the payment is made in full.

(f) A civil penalty collected under this article shall be deposited to the credit of the drug court account in the general revenue fund to help fund drug court programs established under Chapter 469, Health and Safety Code.

(g) A law enforcement agency or attorney representing the state is immune from liability under this article if the agency or attorney reasonably relied on:

(1) the advice, consent, or approval of an entity that conducts an audit of the agency or attorney under this chapter; or

(2) a written opinion of the attorney general relating to:

(A) the statute or other provision of law the agency or attorney is alleged to have knowingly violated; or

(B) a fact situation that is substantially similar to the fact situation in which the agency or attorney is involved.

SECTION 4. The changes in law made by this Act in amending Article 59.03, Code of Criminal Procedure, apply only to property seized on or after the effective date of this Act. Property seized before the effective date of this Act is covered by the law in effect when the property was seized, and the former law is continued in effect for that purpose. For purposes of this section, property was seized before the effective date of this Act if any portion of the property was seized before that date.

SECTION 5. Except as provided by Section 6 of this Act, the changes in law made by this Act in amending Article 59.06, Code of Criminal Procedure, apply to the disposition or use, on or after the effective date of this Act, of proceeds or property received by a law enforcement agency or attorney representing the state under Chapter 59, Code of Criminal Procedure, regardless of whether the receipt of the proceeds or property occurred before, on, or after the effective date of this Act.

SECTION 6. The changes in law made by this Act in amending Subsection (g), Article 59.06, Code of Criminal Procedure, and adding Articles 59.061 and 59.062, Code of Criminal Procedure, apply to any audit performed on or after the effective date of this Act.

SECTION 7. This Act takes effect September 1, 2011.

The Conference Committee Report on **SB 316** was filed with the Secretary of the Senate.

CO-AUTHOR OF SENATE BILL 516

On motion of Senator Patrick, Senator Uresti will be shown as Co-author of **SB 516**.

CO-SPONSOR OF HOUSE BILL 1756

On motion of Senator Watson, Senator Zaffirini will be shown as Co-sponsor of **HB 1756**.

CO-SPONSOR OF HOUSE BILL 1757

On motion of Senator Watson, Senator Zaffirini will be shown as Co-sponsor of **HB 1757**.

CO-SPONSOR OF HOUSE BILL 1758

On motion of Senator Watson, Senator Zaffirini will be shown as Co-sponsor of **HB 1758**.

CO-SPONSOR OF HOUSE BILL 1821

On motion of Senator West, Senator Uresti will be shown as Co-sponsor of **HB 1821**.

CO-SPONSOR OF HOUSE BILL 1942

On motion of Senator Van de Putte, Senator Whitmire will be shown as Co-sponsor of **HB 1942**.

CO-SPONSOR OF HOUSE BILL 2761

On motion of Senator West, Senator Uresti will be shown as Co-sponsor of **HB 2761**.

CO-SPONSORS OF HOUSE BILL 2779

On motion of Senator Patrick, Senators Birdwell, Uresti, and West will be shown as Co-sponsors of **HB 2779**.

CO-SPONSOR OF HOUSE CONCURRENT RESOLUTION 42

On motion of Senator Williams, Senator Davis will be shown as Co-sponsor of **HCR 42**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 1126 by Birdwell, In memory of John Edward Andrade, Sr.

SR 1127 by Birdwell, In memory of Bryan A. Burgess.

SR 1128 by Birdwell, In memory of Joel A. Ramirez.

SR 1134 by Hinojosa, In memory of Glennis Waltz "Gee" Anderson of Corpus Christi.

Congratulatory Resolutions

SR 1125 by Davis, Recognizing John F. Carter for his entrepreneurial success.

SR 1132 by Lucio, Recognizing Harvey and Tim Hull for their craftsmanship.

SR 1133 by Hinojosa, Recognizing Lydia G. Sandoval for her 25 years of service at Lone Star National Bank in McAllen.

SR 1136 by Carona, Recognizing Gary Slagel for his service to the City of Richardson.

SR 1137 by Carona, Recognizing John Murphy for his service to the City of Richardson.

SR 1138 by Carona, Recognizing Bob Macy for his service to the City of Richardson.

SR 1139 by Van de Putte, Recognizing Mark Anthony Flores on the occasion of his retirement from the United States Navy.

SR 1140 by Van de Putte, Recognizing Alamo Honor Flight for its support of our nation's veterans.

SR 1141 by Van de Putte, Recognizing the class of 1961 of Edgewood High School of San Antonio on the occasion of its reunion.

SR 1142 by Van de Putte, Recognizing the 173rd Airborne Brigade Association on the occasion of its reunion.

Official Designation Resolutions

SR 1135 by Carona, Celebrating May 30, 2011, as Carry the Load Day.

SR 1143 by Van de Putte, Declaring August of 2011 as Student Athlete Heart Screening Month in Texas.

RECESS

On motion of Senator Whitmire, the Senate at 11:33 p.m. recessed until 9:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 23, 2011

STATE AFFAIRS — **CSHB 274**

BUSINESS AND COMMERCE — **CSHB 2643**

INTERNATIONAL RELATIONS AND TRADE — **HB 3864, CSHB 1788**

HIGHER EDUCATION — **CSHB 736**

CRIMINAL JUSTICE — **CSHB 290, CSHB 2337**

HIGHER EDUCATION — **CSHB 2910, HB 1053, CSHB 2999**

INTERGOVERNMENTAL RELATIONS — **HB 3836, HB 3831 (Amended),
HB 3462, CSHB 3819, HB 3859 (Amended)**

HIGHER EDUCATION — **CSHB 3025, CSHB 1206**

NATURAL RESOURCES — **HB 3328**

CRIMINAL JUSTICE — **CSHB 1940, CSHB 3, CSHB 1646**

AGRICULTURE AND RURAL AFFAIRS — **HB 2996, HB 2997**

STATE AFFAIRS — **CSHB 2728**

GOVERNMENT ORGANIZATION — **CSHB 2439**

CRIMINAL JUSTICE — **CSHB 927**

HIGHER EDUCATION — **CSHB 3708**

BILLS ENGROSSED

May 21, 2011

SB 1193, SB 1837

BILLS AND RESOLUTIONS ENROLLED

May 21, 2011

**SB 31, SB 36, SB 41, SB 58, SB 74, SB 80, SB 122, SB 131, SB 155, SB 219,
SB 246, SB 247, SB 256, SB 258, SB 264, SB 310, SB 311, SB 315, SB 387,
SB 400, SB 402, SB 419, SB 431, SB 432, SB 436, SB 514, SB 520, SB 540,
SB 545, SB 558, SB 601, SB 794, SB 795, SB 813, SB 822, SB 860, SB 882,
SB 896, SB 910, SB 953, SB 992, SB 1047, SB 1057, SB 1154, SB 1187, SB 1208,
SB 1248, SB 1295, SB 1311, SB 1352, SB 1410, SB 1414, SB 1578, SB 1598,
SB 1660, SB 1667, SB 1668, SB 1669, SB 1687, SB 1692, SB 1719, SB 1755,
SB 1831, SCR 57, SR 1056, SR 1057, SR 1058, SR 1059, SR 1060, SR 1061,
SR 1062, SR 1063, SR 1064, SR 1065, SR 1066, SR 1067, SR 1068, SR 1069,
SR 1070, SR 1071, SR 1072, SR 1073, SR 1074, SR 1075, SR 1076, SR 1077,
SR 1078, SR 1079, SR 1080, SR 1081, SR 1082, SR 1083, SR 1084, SR 1085,
SR 1086, SR 1087, SR 1088, SR 1089, SR 1090, SR 1091, SR 1092, SR 1093,
SR 1094, SR 1095, SR 1096, SR 1097, SR 1098, SR 1099, SR 1100, SR 1101,
SR 1102, SR 1103, SR 1104, SR 1105, SR 1106, SR 1107, SR 1108, SR 1109,
SR 1110, SR 1111, SR 1112, SR 1113, SR 1114, SR 1115, SR 1116, SR 1117,
SR 1118, SR 1119, SR 1120, SR 1121, SR 1122, SR 1123, SR 1124**