

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTY-SEVENTH DAY

(Tuesday, May 16, 2017)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

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

Pastor Jerry Griffin, First Baptist Church, Forney, offered the invocation as follows:

Heavenly Father, we want to tell You that we love You. We love You because You first loved us and have shown Your love to us as individuals and as a state in so many ways. We thank You for life and health and strength today. We thank You for our great state and for Your blessings upon our state. We thank You for the religious heritage of our state and pray that we shall not drift away from that heritage. Thank You for the men and women who lead us in our state, and we thank You today for Lieutenant Governor Patrick and each one of our State Senators. Bless and guide them in this session today. Give each one the wisdom to know that which is right and the courage to stand for that which is right. Continue to bless our state and the people of our state, we ask in Jesus' name. 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.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 16, 2017 - 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 143 Lozano
Recalling S.B. No. 622 from the governor for clerical actions.

SB 500 Taylor, Van Sponsor: Geren
Relating to the effect of certain felony convictions of public elected officers.
(Amended)

SB 1033 Perry Sponsor: Frullo
Relating to authorization for the conveyance of certain real property from Texas Tech University to Texas Tech University Health Sciences Center.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Creighton was recognized and presented Dr. Marian Allen of Spring as the Physician of the Day.

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

SENATE RESOLUTION 770

Senator Uresti offered the following resolution:

SR 770, Congratulating Fred Hines on the occasion of his retirement.

URESTI
MENÉNDEZ

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate Clarity Child Guidance Center CEO Fred Hines and Board Members Charles McLane and Peggy Deming.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Lucio, joined by Senator Zaffirini, was recognized and introduced to the Senate First Lady of Texas Cecilia Abbott.

The Senate welcomed its guest.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Menéndez was granted leave of absence for the remainder of the day on account of an illness in the family.

SENATE RESOLUTION 781

Senator Estes offered the following resolution:

SR 781, Congratulating the Texas Woman's University gymnastics team on winning the 2017 USA Gymnastics Women's Collegiate National Championships.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate representatives of the Texas Woman's University gymnastics team: Katie Simpson, Brandi Lazarus, Alyssa Kelly, Erin Alderman, Morgan Colee, Kristen Meyers, Emily Brannon, and Coaches Lisa Bowerman and Garrett Griffeth.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Estes was again recognized and introduced to the Senate University of North Texas Master of Public Administration program students.

The Senate welcomed its guests.

SENATE RESOLUTION 797

Senator Uresti, on behalf of Senator Menéndez, offered the following resolution:

WHEREAS, The Honorable Raynaldo T. Lopez is retiring from the San Antonio City Council on May 31, 2017, drawing to a close eight years of exemplary service as the District 6 representative; and

WHEREAS, Ray Lopez has enjoyed a highly successful career in the information and telecommunications industry that has spanned nearly three and a half decades; he served as a director at AT&T until retiring in 2009, and soon thereafter he founded REV Enterprises, an educational technology company; and

WHEREAS, Committed to giving back to his community, Mr. Lopez first entered politics in 1990 with his election to the Northside Independent School District Board of Trustees, and his three-term tenure included service as president of the board; he was subsequently elected as a trustee of the Region 20 Education Service Center, a position he held until local voters chose him for the city council in May 2009; and

WHEREAS, Throughout his tenure in municipal government, Mr. Lopez has worked tirelessly in behalf of his constituents, and he has further distinguished himself as a member of numerous local boards and committees and as chair of the Transportation, Technology and Utilities Council Committee and the Alamo Area Metropolitan Planning Organization; and

WHEREAS, In honor of his many accomplishments, Mr. Lopez was presented with an AT&T Circle of Excellence Award and inducted into the Harlingen Independent School District Hall of Fame; and

WHEREAS, This esteemed Texan has been supported in all his endeavors by the love and encouragement of his wife, Evelyn, and he takes immense pride in his four children and his treasured grandchildren; and

WHEREAS, Through his unwavering commitment to public service, Ray Lopez has greatly benefited the citizens of San Antonio, and he may indeed reflect with pride on a job well done as he embarks on the next exciting chapter of his life; now, therefore, be it

RESOLVED, That the Senate of the 85th Texas Legislature hereby congratulate Raynaldo T. Lopez on his retirement from the San Antonio City Council and extend to him sincere best wishes for continued happiness and fulfillment; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Mr. Lopez as an expression of high regard by the Texas Senate.

MENÉNDEZ
URESTI
ZAFFIRINI

SR 797 was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate Councilmember Raynaldo T. Lopez and Evelyn Lopez.

The Senate welcomed its guests.

HOUSE CONCURRENT RESOLUTION 143

The President laid before the Senate the following resolution:

WHEREAS, Senate Bill No. 622 has passed the Texas Senate and the Texas House of Representatives and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the senate and the house of representatives is necessary; now, therefore, be it

RESOLVED by the 85th Legislature of the State of Texas, That the governor be hereby requested to return Senate Bill No. 622 to the house for clerical actions; and, be it further

RESOLVED, That the action of the president of the senate and the speaker of the house in signing Senate Bill No. 622 be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

BURTON

HCR 143 was read.

On motion of Senator Burton, the resolution was considered immediately and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Menéndez.

(Senator Huffman in Chair)

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

The Presiding Officer announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

CONCLUSION OF MORNING CALL

The Presiding Officer at 11:46 a.m. announced the conclusion of morning call.

**COMMITTEE SUBSTITUTE
SENATE BILL 1151 ON THIRD READING**

Senator Buckingham moved to suspend the regular order of business to take up for consideration **CSSB 1151** at this time on its third reading and final passage:

CSSB 1151, Relating to the protection of expressive activities at public institutions of higher education.

The motion prevailed by the following vote: Yeas 20, Nays 9, Present-not voting 1.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Lucio, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Present-not voting: Seliger.

Absent-excused: Menéndez.

The bill was read third time and was passed by the following vote: Yeas 20, Nays 9, Present-not voting 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1972 ON SECOND READING**

Senator Kolkhorst moved to suspend the regular order of business to take up for consideration **CSSB 1972** at this time on its second reading:

CSSB 1972, Relating to the deposit and distribution by the Texas Racing Commission of certain pari-mutuel wagering funds to benefit the Texas-bred program.

The motion prevailed.

Senators Burton, Huffines, and Huffman 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 engrossment by a viva voce vote.

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

Nays: Burton, Huffines, Huffman.

Absent-excused: Menéndez.

**COMMITTEE SUBSTITUTE
SENATE BILL 1972 ON THIRD READING**

Senator Kolkhorst moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1972** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Estes, Garcia, Hall, Hancock, Hinojosa, Hughes, Kolkhorst, Lucio, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Huffines, Huffman.

Absent-excused: Menéndez.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 791 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 791** at this time on its second reading:

CSHB 791, Relating to allowing individuals appointed to state office to file required financial statements by certified mail.

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: Menéndez.

**COMMITTEE SUBSTITUTE
HOUSE BILL 791 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 791** be placed on its third reading and final passage.

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

Absent-excused: Menéndez.

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

HOUSE BILL 1116 ON SECOND READING

On motion of Senator Buckingham and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1116** at this time on its second reading:

HB 1116, Relating to the repeal of certain state procurement advisory and approval procedures.

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: Menéndez.

HOUSE BILL 1116 ON THIRD READING

Senator Buckingham moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1116** be placed on its third reading and final passage.

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

Absent-excused: Menéndez.

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

HOUSE BILL 263 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 263** at this time on its second reading:

HB 263, Relating to the issuance of "Back the Blue" specialty license plates.

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: Menéndez.

HOUSE BILL 263 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 263** be placed on its third reading and final passage.

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

Absent-excused: Menéndez.

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

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Nichols and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Transportation might meet and consider the following bills tomorrow:

HB 1693, HB 2319, HB 2557, HB 3087.

HOUSE BILL 1655 ON SECOND READING

On motion of Senator Huffines and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1655** at this time on its second reading:

HB 1655, Relating to the reporting of certain offenses committed by members of the Texas military forces.

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: Menéndez.

HOUSE BILL 1655 ON THIRD READING

Senator Huffines moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1655** be placed on its third reading and final passage.

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

Absent-excused: Menéndez.

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 1691 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 1691** at this time on its second reading:

CSHB 1691, Relating to the designation of certain rest areas on Interstate Highway 27 in Hale County as the Nelda M. Laney Safety Rest Areas.

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: Menéndez.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1691 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 1691** be placed on its third reading and final passage.

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

Absent-excused: Menéndez.

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

HOUSE BILL 2964 ON SECOND READING

On motion of Senator Hancock and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2964** at this time on its second reading:

HB 2964, Relating to abandonment of shares of a mutual fund.

The bill was read second time.

Senator Hancock offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2964** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 72.1021, Property Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A holder of shares of a mutual fund shall notify the owner of the shares when the owner makes the initial purchase of shares in the fund that the owner may designate a representative under Subsection (a).

SECTION 2. This Act takes effect September 1, 2017.

The amendment to **HB 2964** 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: Menéndez.

HB 2964 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: Menéndez.

HOUSE BILL 2964 ON THIRD READING

Senator Hancock moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2964** be placed on its third reading and final passage.

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

Absent-excused: Menéndez.

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

HOUSE BILL 216 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 216** at this time on its second reading:

HB 216, Relating to the designation of a portion of U.S. Highway 380 in Young and Jack Counties as the Henry H. King Memorial Highway.

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: Menéndez.

HOUSE BILL 216 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 216** be placed on its third reading and final passage.

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

Absent-excused: Menéndez.

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

HOUSE BILL 256 ON SECOND READING

Senator Whitmire moved to suspend the regular order of business to take up for consideration **HB 256** at this time on its second reading:

HB 256, Relating to the authority of a city attorney to seek an injunction to abate a common nuisance under the Alcoholic Beverage Code.

The motion prevailed.

Senators Burton and Huffines 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: Burton, Huffines.

Absent-excused: Menéndez.

HOUSE BILL 256 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 **HB 256** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Estes, Garcia, Hall, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Huffines.

Absent-excused: Menéndez.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

SENATE BILL 559 WITH HOUSE AMENDMENT

Senator Hancock called **SB 559** 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 559** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the miscellaneous gross receipts tax on utility companies.

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

SECTION 1. Section 182.021(1), Tax Code, is amended to read as follows:

(1) "Utility company" means a person:

(A) who owns or operates a gas or water works, or water plant used for ~~local~~ sale and distribution ~~located~~ within an incorporated city or town in this state; or

(B) who owns or operates an electric light or electric power works, or light plant used for ~~local~~ sale and distribution ~~located~~ within an incorporated city or town in this state, or who is a retail electric provider, as that term is defined in Section 31.002, Utilities Code, that makes ~~local~~ sales within an incorporated city or town in this state; provided, however, that a person who owns an electric light or electric power or gas plant used for distribution but who does not make retail sales to the ultimate consumer within an incorporated city or town in this state is not included in this definition.

SECTION 2. Section 182.022(a), Tax Code, is amended to read as follows:

(a) A tax is imposed on each utility company that makes a sale to an ultimate consumer ~~located~~ in an incorporated city or town having a population of more than 1,000, according to the last federal census next preceding the filing of the report.

SECTION 3. The amendments made by this Act to Sections 182.021 and 182.022, Tax Code, are a clarification of existing law and do not imply that existing law may be construed as inconsistent with the law as amended by this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

The amendment was read.

Senator Hancock moved to concur in the House amendment to **SB 559**.

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

Absent-excused: Menéndez.

SENATE BILL 44 WITH HOUSE AMENDMENTS

Senator Zaffirini called **SB 44** 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 44** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to requirements relating to an application for a place on the ballot.

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

SECTION 1. Section 141.032(c), Election Code, is amended to read as follows:

(c) If an application is accompanied by a petition, the petition is considered part of the application, and the review shall be completed as soon as practicable after the date the application is received by the authority. However, the petition is not considered part of the application for purposes of determining compliance with the requirements applicable to each document, and a deficiency in the requirements for one document may not be remedied by the contents of the other document. Unless the petition is challenged, the authority is only required to review the petition for facial compliance with the applicable requirements as to form, content, and procedure.

SECTION 2. Section 141.034, Election Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) An application for a place on the ballot may not be challenged for compliance with the applicable requirements as to form, content, and procedure after the day before any ballot to be voted early by mail is mailed to an address in the authority's jurisdiction [the beginning of early voting by personal appearance] for the election for which the application is made.

(c) A challenge must state with specificity how the application does not comply with the applicable requirements as to form, content, and procedure. The authority's review of the challenge is limited to the specific items challenged and any response filed with the authority by the challenged candidate.

SECTION 3. Section 172.021, Election Code, is amended by adding Subsections (e) and (g) to read as follows:

(e) A candidate for an office specified by Section 172.024(a)(8), (10), or (12), or for justice of the peace in a county with a population of more than 1.5 million, who chooses to pay the filing fee must also accompany the application with a petition for a place on the primary ballot as a candidate for judicial office that complies with the requirements prescribed for the petition authorized by Subsection (b), except that the minimum number of signatures that must appear on the petition required by this subsection is 250. If the candidate chooses to file the petition authorized by Subsection (b) in lieu of the filing fee, the minimum number of signatures required for that petition is increased by 250. Signatures on a petition filed under this subsection or Subsection (b) by a candidate covered by this subsection may not be obtained on the grounds of a county courthouse or courthouse annex.

(g) A candidate for the office of chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals, who chooses to pay the filing fee must also accompany the application with a petition that complies with the requirements prescribed for a petition authorized by Subsection (b), except that the minimum number of signatures that must appear on the petition required by this subsection is 50 from each court of appeals district.

SECTION 4. This Act takes effect September 1, 2017.

Floor Amendment No. 1 on Third Reading

Amend **SB 44** on third reading, in SECTION 4 of the bill (house committee report) by striking line 6, page 3, and substituting with the following: 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, 2017.

The amendments were read.

Senator Zaffirini moved to concur in the House amendments to **SB 44**.

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

Absent-excused: Menéndez.

SENATE BILL 680 WITH HOUSE AMENDMENT

Senator Hancock called **SB 680** 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 680** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to step therapy protocols required by a health benefit plan in connection with prescription drug coverage.

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

SECTION 1. Section 1369.051, Insurance Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a), (1-b), and (5) to read as follows:

(1) "Clinical practice guideline" means a statement systematically developed by a multidisciplinary panel of experts composed of physicians and, as necessary, other health care providers to assist a patient or health care provider in making a decision about appropriate health care for a specific clinical circumstance or condition.

(1-a) "Clinical review criteria" means the written screening procedures, decision abstracts, clinical protocols, and clinical practice guidelines used by a health benefit plan issuer, utilization review organization, or independent review organization to determine the medical necessity and appropriateness or the experimental or investigational nature of a health care service or prescription drug.

(1-b) "Drug formulary" means a list of drugs:

(A) for which a health benefit plan provides coverage;

(B) for which a health benefit plan issuer approves payment; or

(C) that a health benefit plan issuer encourages or offers incentives for physicians to prescribe.

(5) "Step therapy protocol" means a protocol that requires an enrollee to use a prescription drug or sequence of prescription drugs other than the drug that the enrollee's physician recommends for the enrollee's treatment before the health benefit plan provides coverage for the recommended drug.

SECTION 2. Subchapter B, Chapter 1369, Insurance Code, is amended by adding Sections 1369.0545 and 1369.0546 to read as follows:

Sec. 1369.0545. STEP THERAPY PROTOCOLS. (a) A health benefit plan issuer that requires a step therapy protocol before providing coverage for a prescription drug must establish, implement, and administer the step therapy protocol in accordance with clinical review criteria readily available to the health care industry. The health benefit plan issuer shall take into account the needs of atypical patient populations and diagnoses in establishing the clinical review criteria. The clinical review criteria:

(1) must consider generally accepted clinical practice guidelines that are:

(A) developed and endorsed by a multidisciplinary panel of experts described by Subsection (b);

(B) based on high quality studies, research, and medical practice;

(C) created by an explicit and transparent process that:

(i) minimizes bias and conflicts of interest;

(ii) explains the relationship between treatment options and outcomes;

(iii) rates the quality of the evidence supporting the recommendations; and

(iv) considers relevant patient subgroups and preferences; and

(D) updated at appropriate intervals after a review of new evidence, research, and treatments; or

(2) if clinical practice guidelines described by Subdivision (1) are not reasonably available, may be based on peer-reviewed publications developed by independent experts, which may include physicians, with expertise applicable to the relevant health condition.

(b) A multidisciplinary panel of experts composed of physicians and, as necessary, other health care providers that develops and endorses clinical practice guidelines under Subsection (a)(1) must manage conflicts of interest by:

(1) requiring each member of the panel's writing or review group to:

(A) disclose any potential conflict of interest, including a conflict of interest involving an insurer, health benefit plan issuer, or pharmaceutical manufacturer; and

(B) recuse himself or herself in any situation in which the member has a conflict of interest;

(2) using a methodologist to work with writing groups to provide objectivity in data analysis and the ranking of evidence by preparing evidence tables and facilitating consensus; and

(3) offering an opportunity for public review and comment.

(c) Subsection (b) does not apply to a panel or committee of experts, including a pharmacy and therapeutics committee, established by a health benefit plan issuer or a pharmacy benefit manager that advises the health benefit plan issuer or pharmacy benefit manager regarding drugs or formularies.

Sec. 1369.0546. STEP THERAPY PROTOCOL EXCEPTION REQUESTS.

(a) A health benefit plan issuer shall establish a process in a user-friendly format that is readily accessible to a patient and prescribing provider, in the health benefit plan's formulary document and otherwise, through which an exception request under this section may be submitted by the provider.

(b) A prescribing provider on behalf of a patient may submit to the patient's health benefit plan issuer a written request for an exception to a step therapy protocol required by the patient's health benefit plan. The provider shall submit the request on the standard form prescribed by the commissioner under Section 1369.304.

(c) A health benefit plan issuer shall grant a written request under Subsection (b) if the request includes the prescribing provider's written statement, with supporting documentation, stating that:

(1) the drug required under the step therapy protocol:

(A) is contraindicated;

(B) will likely cause an adverse reaction in or physical or mental harm to the patient; or

(C) is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(2) the patient previously discontinued taking the drug required under the step therapy protocol, or another prescription drug in the same pharmacologic class or with the same mechanism of action as the required drug, while under the health benefit plan currently in force or while covered under another health benefit plan because the drug was not effective or had a diminished effect or because of an adverse event;

(3) the drug required under the step therapy protocol is not in the best interest of the patient, based on clinical appropriateness, because the patient's use of the drug is expected to:

(A) cause a significant barrier to the patient's adherence to or compliance with the patient's plan of care;

(B) worsen a comorbid condition of the patient; or

(C) decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities; or

(4)(A) the drug that is subject to the step therapy protocol was prescribed for the patient's condition;

(B) the patient:

(i) received benefits for the drug under the health benefit plan currently in force or a previous health benefit plan; and

(ii) is stable on the drug; and

(C) the change in the patient's prescription drug regimen required by the step therapy protocol is expected to be ineffective or cause harm to the patient based on the known clinical characteristics of the patient and the known characteristics of the required prescription drug regimen.

(d) Except as provided by Subsection (e), if a health benefit plan issuer does not deny an exception request described by Subsection (c) before 72 hours after the health benefit plan issuer receives the request, the request is considered granted.

(e) If an exception request described by Subsection (c) also states that the prescribing provider reasonably believes that denial of the request makes the death of or serious harm to the patient probable, the request is considered granted if the health benefit plan issuer does not deny the request before 24 hours after the health benefit plan issuer receives the request.

(f) The denial of an exception request under this section is an adverse determination for purposes of Section 4201.002 and is subject to appeal under Subchapters H and I, Chapter 4201.

SECTION 3. Section 4201.357, Insurance Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) An adverse determination under Section 1369.0546 is entitled to an expedited appeal. The physician or, if appropriate, other health care provider deciding the appeal must consider atypical diagnoses and the needs of atypical patient populations.

SECTION 4. Section 4202.003, Insurance Code, is amended to read as follows:

Sec. 4202.003. REQUIREMENTS REGARDING TIMELINESS OF DETERMINATION. The standards adopted under Section 4202.002 must require each independent review organization to make the organization's determination:

(1) for a life-threatening condition as defined by Section 4201.002, ~~[or]~~ the provision of prescription drugs or intravenous infusions for which the patient is receiving benefits under the health insurance policy, or a review of a step therapy protocol exception request under Section 1369.0546, not later than the earlier of the third day after the date the organization receives the information necessary to make the determination or, with respect to:

(A) a review of a health care service provided to a person with a life-threatening condition eligible for workers' compensation medical benefits, the eighth day after the date the organization receives the request that the determination be made; or

(B) a review of a health care service other than a service described by Paragraph (A), the third day after the date the organization receives the request that the determination be made; or

(2) for a situation other than a situation described by Subdivision (1), not later than the earlier of:

(A) the 15th day after the date the organization receives the information necessary to make the determination; or

(B) the 20th day after the date the organization receives the request that the determination be made.

SECTION 5. The changes in law made by this Act apply only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2018. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2018, 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 6. This Act takes effect September 1, 2017.

The amendment was read.

Senator Hancock moved to concur in the House amendment to **SB 680**.

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

Absent-excused: Menéndez.

SENATE BILL 1524 WITH HOUSE AMENDMENTS

Senator Nichols called **SB 1524** 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 1524** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the movement of certain vehicles transporting an intermodal shipping container; authorizing a fee; creating an offense.

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

SECTION 1. Section 550.062, Transportation Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) If the motor vehicle accident involved a combination of vehicles operating under a permit issued under Section 623.402, the report required by Subsection (a) must include the weight and the number of axles of the vehicle combination.

SECTION 2. Section 621.303, Transportation Code, is amended to read as follows:

Sec. 621.303. MUNICIPAL REGULATION OF LOADS AND EQUIPMENT.

(a) The governing body of any municipality may regulate the movement and operation on a public road, other than a state highway in the territory of the municipality, of:

(1) an overweight, oversize, or overlength commodity that cannot reasonably be dismantled; and

(2) superheavy or oversize equipment for the transportation of an overweight, oversize, or overlength commodity that cannot be reasonably dismantled.

(b) The governing body of a municipality may not, because of weight, regulate the movement and operation on a state highway or county or municipal road of a combination of vehicles operating under a permit issued under Section 623.402.

SECTION 3. Chapter 623, Transportation Code, is amended by adding Subchapter U to read as follows:

SUBCHAPTER U. INTERMODAL SHIPPING CONTAINERS

Sec. 623.401. DEFINITION. In this subchapter, "intermodal shipping container" means an enclosed, standardized, reusable container that:

(1) is used to pack, ship, move, or transport cargo;

(2) is designed to be carried on a semitrailer and loaded onto or unloaded from:

(A) a ship or vessel for international transportation; or

(B) a rail system for international transportation; and

(3) when combined with vehicles transporting the container, has a gross weight or axle weight that exceeds the limits allowed by law to be transported over a state highway or county or municipal road.

Sec. 623.402. ISSUANCE OF PERMIT. (a) The department may issue an annual permit authorizing the movement of a sealed intermodal shipping container moving in international transportation by a truck-tractor and semitrailer combination that has six total axles and is equipped with a roll stability support safety system and truck blind spot systems only if:

(1) the gross weight of the combination does not exceed 93,000 pounds;

(2) the distance between the front axle of the truck-tractor and the last axle of the semitrailer, measured longitudinally, is approximately 647 inches;

(3) the truck-tractor is configured as follows:

(A) one single axle that does not exceed 13,000 pounds;

(B) one two-axle group that does not exceed 37,000 pounds, in which no axle in the group exceeds 18,500 pounds; and

(C) the distance between the individual axles on the two-axle group of the truck-tractor, measured longitudinally, is not less than 51 inches and not more than 52 inches; and

(4) the semitrailer is configured as follows:

(A) one three-axle group that does not exceed 49,195 pounds, in which no axle in the group exceeds 16,400 pounds; and

(B) the distance between the individual axles in the three-axle group of the semitrailer, measured longitudinally, is 60 inches.

(b) The department may issue an annual permit authorizing the movement of a sealed intermodal shipping container moving in international transportation by a truck-tractor and semitrailer combination that has seven total axles and is equipped with a roll stability support safety system and truck blind spot systems only if:

(1) the gross weight of the combination does not exceed 100,000 pounds;

(2) the distance between the front axle of the truck-tractor and the last axle of the semitrailer, measured longitudinally, is approximately 612 inches;

(3) the truck-tractor is configured as follows:

(A) one single axle that does not exceed 15,000 pounds;

(B) one three-axle group that does not exceed 44,500 pounds, in which no axle in the group exceeds 14,900 pounds; and

(C) the distance between the individual axles on the three-axle group of the truck-tractor, measured longitudinally, is not less than 51 inches and not more than 52 inches; and

(4) the semitrailer is configured as follows:

(A) one three-axle group that does not exceed 46,200 pounds, in which no axle in the group exceeds 15,400 pounds; and

(B) the distance between the individual axles in the three-axle group of the semitrailer, measured longitudinally, is 60 inches.

(c) For purposes of Subsections (a) and (b), the gross weight, group weights, and axle weights listed in those subsections include all enforcement tolerances.

Sec. 623.403. COUNTY AND MUNICIPALITY DESIGNATION. (a) An applicant for a permit under this subchapter must designate each county and municipality in which the permit will be used.

(b) A permit issued under this subchapter is not valid in a county or municipality that is not designated in the permit application.

Sec. 623.404. PERMIT FEE. (a) An application for a permit under Section 623.402(a) or (b) must be accompanied by a permit fee of \$5,000, of which:

(1) 60 percent shall be deposited to the credit of the state highway fund;

(2) 35 percent shall be equally divided among and distributed to each county designated in the permit application; and

(3) 5 percent shall be equally divided among and distributed to each municipality designated in the permit application.

(b) At least once each fiscal year, the comptroller shall send the amount due each county under Subsection (a) to the county treasurer or office performing the function of that office for deposit to the credit of the county road and bridge fund.

(c) At least once each fiscal year, the comptroller shall send the amount due each municipality under Subsection (a) to the office performing the function of treasurer for the municipality. A municipality may use funds received under this subsection only to fund commercial motor vehicle enforcement programs or road or bridge maintenance or infrastructure projects.

Sec. 623.405. ROUTE RESTRICTIONS. (a) A permit issued under this subchapter does not authorize the operation of a truck-tractor and semitrailer combination on:

(1) the national system of interstate and defense highways; or

(2) load-restricted roads or bridges, including a road or bridge for which a maximum weight and load limit has been established and posted by the Texas Department of Transportation under Section 621.102 or the commissioners court of a county under Section 621.301.

(b) Subject to Section 623.406, a permit issued under this subchapter authorizes the operation of a truck-tractor and semitrailer combination only on highways and roads approved by the Texas Department of Transportation.

Sec. 623.406. PERMIT CONDITIONS. (a) In this section, "port of entry" has the meaning assigned by Section 621.001.

(b) The transportation of a sealed intermodal shipping container under a permit issued under this subchapter:

(1) must begin or end at a port of entry that is located:

(A) in a county contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf; or

(B) between this state and the United Mexican States; and

(2) may not exceed 30 miles from the port of entry and must be on a highway or road described by Section 623.405(b).

(c) In addition to the requirements of Subsection (b), the intermodal shipping container must be continuously sealed from the point of origin to the point of destination with a seal that is required by:

(1) the United States Customs and Border Protection;

(2) the United States Food and Drug Administration; or

(3) federal law or regulation.

(d) A permit issued under this subchapter does not authorize the transportation of a material designated as of January 1, 2017, as a hazardous material by the United States secretary of transportation under 49 U.S.C. Section 5103(a).

(e) A permit issued under this subchapter does not authorize the transportation of a sealed intermodal shipping container in a county that borders New Mexico and the United Mexican States.

Sec. 623.407. PERMIT STICKER. (a) When the department issues a permit under this subchapter, the department shall issue a sticker to be placed on the front windshield of the truck-tractor. The department shall design the form of the sticker to aid in the enforcement of weight limits.

(b) The sticker must:

(1) indicate the expiration date of the permit; and

(2) be removed from the truck-tractor when:

(A) the permit for operation of the truck-tractor expires;

(B) a lease of the truck-tractor expires; or

(C) the truck-tractor is sold.

Sec. 623.408. PERMIT AND WEIGHT RECORD DOCUMENTS. (a) A permit issued under this subchapter must be carried in the truck-tractor for which the permit is issued.

(b) A copy of the weight record in the form prescribed by the department must contain the information required by Section 621.410(c) and must be:

(1) carried in the truck-tractor if the truck-tractor is:

(A) on a public highway or road; and

(B) transporting an intermodal shipping container that contains cargo;

and

(2) presented, on request, to an officer authorized to enforce this subtitle, regardless of whether a weight record is required under Section 621.410.

Sec. 623.409. OFFENSE. (a) A person commits an offense if the person fails to:

(1) display the sticker described by Section 623.407(a) in the manner required by that section;

(2) carry a permit issued under this subchapter as required by Section 623.408(a); or

(3) carry or present a weight record as required by Section 623.408(b).

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

Sec. 623.410. RULES. (a) The department shall adopt rules necessary to implement this subchapter, including rules governing the application for a permit under this subchapter.

(b) The Department of Public Safety shall adopt rules requiring additional safety and driver training for permits issued under this subchapter.

SECTION 4. Section 623.003(b), Transportation Code, is amended to read as follows:

(b) The Texas Department of Transportation shall provide the department with all routing information necessary to complete a permit issued under Section 623.071, 623.121, 623.142, ~~or~~ 623.192, or 623.402.

SECTION 5. Section 623.018(d), Transportation Code, is amended to read as follows:

(d) If a vehicle is being operated in compliance with ~~has~~ a permit issued under Section 623.011 or 623.402, a commissioner's court may not:

(1) issue a permit under this section or charge an additional fee for or otherwise regulate or restrict the operation of the vehicle because of weight; or

(2) require the owner or operator to:

(A) execute or comply with a road use agreement or indemnity agreement;

(B) ~~to~~ make a filing or application; or

(C) ~~to~~ provide a bond or letter of credit, other than the bond or letter of credit prescribed by Section 623.012 for a vehicle issued a permit under Section 623.011.

SECTION 6. Subchapter D, Chapter 623, Transportation Code, is amended by adding Section 623.070 to read as follows:

Sec. 623.070. NONAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to the transportation of an intermodal shipping container as defined by Section 623.401, regardless of whether the container is sealed or unsealed.

SECTION 7. This Act takes effect January 1, 2018.

Floor Amendment No. 1

Amend CSSB 1524 (house committee report) as follows:

(1) On page 6, lines 11-12, strike ", "port of entry"" and substitute the following:

:

(1) "Port authority" means a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(2) "Port of entry"

(2) On page 6, line 15, between "at a" and "port", insert "port authority or".

(3) On page 6, line 21, between "from the" and "port", insert "port authority or".

Floor Amendment No. 2

Amend CSSB 1524 (House committee printing) as follows:

- (1) On page 6, lines 16-17, strike "":
(A)"
- (2) On page 6, lines 18-20, strike "or
(B) between this state and the United Mexican States;".

Floor Amendment No. 4

Amend **CSSB 1524** (House committee printing) in SECTION 2 of the bill as follows:

- (1) On page 5, line 5, strike "\$5,000" and substitute "\$6,000".
- (2) On page 5, strike lines 6 to 13, and substitute:
"(1) 50 percent shall be deposited to the credit of the state highway fund;
(2) 30 percent shall be equally divided among and distributed to each county
designated in the permit application;
(3) 16 percent shall be equally divided among and distributed to each
municipality designated in the permit application; and
(4) 4 percent shall be deposited to the credit of the Texas Department of
Motor Vehicles fund."

Floor Amendment No. 8

Amend **CSSB 1524** (house committee report) on page 8, between lines 17 and 18, by inserting the following appropriately numbered section, renumbering subsequent sections of added Subchapter U, Chapter 623, Transportation Code, accordingly, and correcting cross-references to sections in the added subchapter as necessary:

Sec. 623. . . STUDY. Beginning in 2022, not later than September 1 of each even-numbered year, the Texas Department of Transportation shall conduct a study concerning vehicles operating under a permit issued under this subchapter and publish the results of the study. In conducting the study, the Texas Department of Transportation shall collect and examine the following information:

- (1) the weight and configuration of vehicles operating under a permit issued under this subchapter that are involved in a motor vehicle accident;
- (2) the types of vehicles operating under a permit issued under this subchapter;
- (3) traffic volumes and variations of vehicles operating under a permit issued under this subchapter;
- (4) weigh-in-motion data for highways and roads located in and around the area described by Section 623.405(b);
- (5) impacts to state and local bridges, including long-term bridge performance, for bridges located in and around the area described by Section 623.405(b); and
- (6) impacts to state and local roads, including changes in pavement design standards, construction specification details, maintenance frequency and types, and properties of pavement and underlying soils resulting from or necessitated by vehicles operating under a permit issued under this subchapter.

Floor Amendment No. 10

Amend **CSSB 1524** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 623.019(f), Transportation Code, is amended to read as follows:

(f) A justice or municipal court ~~[of the peace]~~ has jurisdiction of an ~~[any]~~ offense under this section. ~~[A municipal court has jurisdiction of an offense under this section in which the fine does not exceed \$500.]~~

Floor Amendment No. 1 on Third Reading

Amend **SB 1524** on third reading by adding the following appropriately lettered subsection to added Section 623.404, Transportation Code, renumbering subsequent subsections of that section, accordingly, and correcting cross-references in added Subchapter U, Chapter 623, Transportation Code, as necessary:

() Notwithstanding Subsection (a), the amount of a fee under Subsection (a) to accompany a permit application that is received on or after January 1, 2023, must be determined by the department after consultation with the University of Texas Center for Transportation Research and the Texas A&M Transportation Institute.

The amendments were read.

Senator Nichols moved to concur in the House amendments to **SB 1524**.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Collin, Uresti, Watson, West, Whitmire.

Nays: Garcia, Miles, Nelson, Taylor of Galveston, Zaffirini.

Absent-excused: Menéndez.

SENATE BILL 1630 WITH HOUSE AMENDMENT

Senator Buckingham called **SB 1630** 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 1630** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to cemeteries.

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

SECTION 1. Section 711.001, Health and Safety Code, is amended to read as follows:

Sec. 711.001. DEFINITIONS. In this chapter:

(1) "Abandoned cemetery" means a cemetery, regardless of whether it appears on a map or in deed records, that is not owned or operated by a cemetery organization, does not have another person legally responsible for its care, and is not maintained by any person.

(2) [(4)] "Burial park" means a tract of land that is used or intended to be used for interment in graves.

(3) [(1-a)] "Campus" means the area:

(A) within the boundaries of one or more adjacent tracts, parcels, or lots under common ownership;

(B) on which the principal church building and related structures and facilities of an organized religious society or sect are located; and

(C) that may be subject to one or more easements for street, utility, or pipeline purposes.

(4) [(2)] "Cemetery" means a place that is used or intended to be used for interment, and includes a graveyard, burial park, mausoleum, or any other area containing one or more graves.

(5) [(2-a)] "Cemetery element" means a grave, memorial, crypt, mausoleum, columbarium, or other item that is associated with the cemetery, including a fence, road, curb, wall, path, gate, or bench and the lighting and landscaping.

(6) [(2-b)] "Cemetery broker" means a person who sells the exclusive right of sepulture for another person. The term does not include a person who:

(A) is an officer, agent, or employee of the cemetery organization in which the plot is located and who is exempt from registration under Subchapter C-1; or

(B) originally purchased the exclusive right of sepulture for personal use.

(7) [(3)] "Cemetery organization" means:

(A) an unincorporated association of plot owners not operated for profit that is authorized by its articles of association to conduct a business for cemetery purposes; or

(B) a corporation, as defined by Section 712.001(b)(3), that is authorized by its certificate of formation or its registration to conduct a business for cemetery purposes.

(8) [(4)] "Cemetery purpose" means a purpose necessary or incidental to establishing, maintaining, managing, operating, improving, or conducting a cemetery, interring remains, or caring for, preserving, and embellishing cemetery property.

(9) [(5)] "Columbarium" means a durable, fireproof structure, or a room or other space in a durable, fireproof structure, containing niches and used or intended to be used to contain cremated remains.

(10) [(5-a)] "Cremains receptacle" means a marker, boulder, bench, pedestal, pillar, or other aboveground vessel that contains niches for cremated remains.

(11) [(6)] "Cremated remains" or "cremains" means the bone fragments remaining after the cremation process, which may include the residue of any foreign materials that were cremated with the human remains.

(12) [~~(7)~~] "Cremation" means the irreversible process of reducing human remains to bone fragments through extreme heat and evaporation, which may include the processing or the pulverization of bone fragments.

(13) [~~(8)~~] "Crematory" means a structure containing a furnace used or intended to be used for the cremation of human remains.

(14) [~~(9)~~] "Crematory and columbarium" means a durable, fireproof structure containing both a crematory and columbarium.

(15) [~~(10)~~] "Crypt" means a chamber in a mausoleum of sufficient size to inter human remains.

(16) [~~(11)~~] "Directors" means the governing body of a cemetery organization.

(17) [~~(12)~~] "Entombment" means interment in a crypt.

(18) [~~(13)~~] "Funeral establishment" means a place of business used in the care and preparation for interment or transportation of human remains, or any place where one or more persons, either as sole owner, in copartnership, or through corporate status, are engaged or represent themselves to be engaged in the business of embalming or funeral directing.

(19) [~~(14)~~] "Grave" means a space of ground that contains interred human remains or is in a burial park and that is used or intended to be used for interment of human remains in the ground.

(20) [~~(15)~~] "Human remains" means the body of a decedent.

(21) [~~(16)~~] "Interment" means the permanent disposition of remains by entombment, burial, or placement in a niche.

(22) [~~(17)~~] "Interment right" means the right to inter the remains of one decedent in a plot.

(23) [~~(18)~~] "Inurnment" means the placement of cremated remains in an urn.

(24) [~~(19)~~] "Lawn crypt" means a subsurface receptacle installed in multiple units for ground burial of human remains.

(25) [~~(20)~~] "Mausoleum" means a durable, fireproof structure used or intended to be used for entombment.

(26) [~~(20-a)~~] "Memorial" means a headstone, tombstone, gravestone, monument, or other marker denoting a grave.

(27) [~~(21)~~] "Niche" means a space in a columbarium or cremains receptacle used or intended to be used for the placement of cremated remains in an urn or other container.

(28) [~~(22)~~] "Nonperpetual care cemetery" means a cemetery that is not a perpetual care cemetery.

(29) [~~(23)~~] "Perpetual care" or "endowment care" means the maintenance, repair, and care of all places in the cemetery.

(30) [~~(24)~~] "Perpetual care cemetery" or "endowment care cemetery" means a cemetery for the benefit of which a perpetual care trust fund is established as provided by Chapter 712.

(31) [~~(25)~~] "Plot" means space in a cemetery owned by an individual or organization that is used or intended to be used for interment, including a grave or adjoining graves, a crypt or adjoining crypts, a lawn crypt or adjoining lawn crypts, or a niche or adjoining niches.

(32) [(26)] "Plot owner" means a person:

(A) in whose name a plot is listed in a cemetery organization's office as the owner of the exclusive right of sepulture; or

(B) who holds, from a cemetery organization, a certificate of ownership or other instrument of conveyance of the exclusive right of sepulture in a particular plot in the organization's cemetery.

(33) [(27)] "Prepaid funeral contract" means a written contract providing for prearranged or prepaid funeral services or funeral merchandise.

(34) [(28)] "Remains" means either human remains or cremated remains.

(35) "Unidentified grave" means a grave that is not marked in a manner that provides the identity of the interment.

(36) "Unknown cemetery" means an abandoned cemetery evidenced by the presence of marked or unmarked graves that does not appear on a map or in deed records.

(37) "Unmarked grave" means the immediate area where one or more human interments are found that:

(A) is not in a recognized and maintained cemetery;

(B) is not owned or operated by a cemetery organization;

(C) is not marked by a tomb, monument, gravestone, or other structure or thing placed or designated as a memorial of the dead; or

(D) is located on land designated as agricultural, timber, recreational, park, or scenic land under Chapter 23, Tax Code.

(38) "Unverified cemetery" means a location having some evidence of interment but in which the presence of one or more unmarked graves has not been verified by a person described by Section 711.0105(a) or by the Texas Historical Commission.

SECTION 2. Section 711.004, Health and Safety Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) For unmarked graves contained within an abandoned, unknown, or unverified cemetery, a justice of the peace acting as coroner or medical examiner under Chapter 49, Code of Criminal Procedure, or a person described by Section 711.0105(a) may investigate or remove remains without written order of the state registrar or the state registrar's designee.

SECTION 3. The heading to Section 711.010, Health and Safety Code, is amended to read as follows:

Sec. 711.010. ~~ABANDONED, UNKNOWN, OR UNVERIFIED~~ [ABANDONED] CEMETERY.

SECTION 4. Section 711.010, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) The owner of property on which an unknown cemetery is discovered or on which an abandoned cemetery is located may not construct improvements on the property in a manner that would [further] disturb the cemetery until the human remains interred in the cemetery are removed under a written order issued by the state registrar or the state registrar's designee under Section 711.004(f) and under an order of a district court as provided by this section, except as provided by Section 711.004(f-1).

(b) On petition of the owner of the property, a district court of the county in which an unknown cemetery is discovered or an abandoned cemetery is located may order the removal of any dedication for cemetery purposes that affects the property if the court finds that the removal of the dedication is in the public interest. If a court orders the removal of a dedication of a cemetery and all human remains in that cemetery ~~[on the property]~~ have not previously been removed, the court shall order the removal of the human remains from the cemetery to a perpetual care cemetery or a municipal or county cemetery.

(d) The Texas Historical Commission, with consent of the landowner, may investigate a suspected but unverified cemetery or may delegate the investigation to a qualified person described by Section 711.0105(a).

SECTION 5. The heading to Section 711.011, Health and Safety Code, is amended to read as follows:

Sec. 711.011. FILING RECORD OF UNKNOWN OR ABANDONED CEMETERY.

SECTION 6. Section 711.011(a), Health and Safety Code, is amended to read as follows:

(a) A person who discovers an unknown or abandoned cemetery shall file notice of the discovery of the cemetery with the county clerk of the county in which the cemetery is located and concurrently mail notice to the landowner on record in the county appraisal district not later than the 10th day after the date of the discovery. The notice must contain a legal description of the land on which the unknown or abandoned cemetery was found and describe the approximate location of the cemetery and the evidence of the cemetery that was discovered.

SECTION 7. Subchapter A, Chapter 711, Health and Safety Code, is amended by adding Section 711.0111 to read as follows:

Sec. 711.0111. NOTICE OF UNVERIFIED CEMETERY. (a) A person who discovers an unverified cemetery shall file notice and evidence of the discovery with the Texas Historical Commission on a form provided by the Texas Historical Commission, and shall concurrently provide a copy of the notice to the landowner on record in the county appraisal district on whose land the unverified cemetery is located.

(b) The landowner described by Subsection (a) may send a response or comments to the Texas Historical Commission concerning the notice not later than the 30th day after the date the notice is filed.

(c) The Texas Historical Commission shall evaluate the notice of the unverified cemetery, the evidence submitted with the notice, and the response of the landowner, if any, and shall determine whether there is sufficient evidence of the existence of a cemetery.

(d) If the Texas Historical Commission determines sufficient evidence supports the existence of a cemetery, the Texas Historical Commission shall inform the landowner and may file notice of the existence of the cemetery under Section 711.011.

(e) If the Texas Historical Commission determines sufficient evidence supports a determination that a cemetery does not exist, the Texas Historical Commission shall notify the landowner on record in the appraisal district of its determination, amend the notice to include the commission's determination, and ensure any notice filed with a county clerk under Section 711.011 is corrected.

SECTION 8. Section 711.041, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not apply to an unverified cemetery.

SECTION 9. Section 712.0441(f-1), Health and Safety Code, is amended to read as follows:

(f-1) The commissioner may issue an order requiring restitution by a person if, after notice and opportunity for a hearing held in accordance with the procedures for a contested case hearing under Chapter 2001, Government Code, the commissioner finds that the corporation has not ordered memorials, as defined by Section 711.001 [~~711.001(20-a)~~], in compliance with the deadlines established by rules adopted under this chapter.

SECTION 10. This Act takes effect September 1, 2017.

The amendment was read.

Senator Buckingham moved to concur in the House amendment to **SB 1630**.

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

Absent-excused: Menéndez.

SENATE BILL 495 WITH HOUSE AMENDMENT

Senator Uresti called **SB 495** 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 495** (house committee printing) as follows:

(1) On page 1, line 12, strike "child neglect or physical or sexual abuse" and substitute "child neglect or [~~physical or sexual~~] abuse or family violence".

(2) On page 1, strike lines 14 through 22 and substitute the following:

(1) that parent; or

(2) any person who resides in that parent's household or who is permitted by that parent to have unsupervised access to the child during that parent's periods of possession of or access to the child [~~directed against the other parent, a spouse, or a child~~].

(3) On page 1, line 24, through page 2, line 1, strike "child neglect or physical or sexual abuse" and substitute "child neglect or [~~physical or sexual~~] abuse or family violence".

(4) On page 2, strike lines 8 through 11 and substitute the following:

(1) "Abuse" and "neglect" have the meanings assigned by Section 261.001.

(2) "Family violence" has the meaning assigned by Section 71.004.

The amendment was read.

Senator Uresti moved to concur in the House amendment to **SB 495**.

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

Absent-excused: Menéndez.

SENATE BILL 1516 WITH HOUSE AMENDMENT

Senator Hancock called **SB 1516** 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 1516** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the registration and regulation of appraisal management companies; authorizing fees; expanding the applicability of an occupational registration.

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

SECTION 1. Section 1104.003(b), Occupations Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Federally regulated appraisal management company" means an appraisal management company that is:

(A) owned and controlled by an insured depository institution, as defined by 12 U.S.C. Section 1813; and

(B) regulated by:

(i) the Board of Governors of the Federal Reserve System;

(ii) the Federal Deposit Insurance Corporation;

(iii) the Office of the Comptroller of the Currency; or

(iv) the successors to any of those agencies.

SECTION 2. Section 1104.004(a), Occupations Code, is amended to read as follows:

(a) This chapter does not apply to:

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

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

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

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

(5) an appraisal management company:

(A) operating only in this state with an appraisal panel of not more than 15 appraisers at all times during a calendar year; or

(B) operating in multiple states, including this state, with an appraisal panel of not more than 24 appraisers in all states at all times during a calendar year; ~~or~~

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

(7) subject to Section 1104.052(c), a federally regulated appraisal management company.

SECTION 3. Section 1104.052, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsections (d) and (e) to read as follows:

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

(c) Notwithstanding Section 1104.004, the board shall collect from each federally regulated appraisal management company operating in this state:

(1) the national registry fee required by the appraisal subcommittee;

(2) information regarding the determination of the national registry fee as required by the appraisal subcommittee;

(3) a fee in an amount that is sufficient for the administration of this subsection as established by board rule; and

(4) any other information required by state or federal law.

(d) The board shall deposit the national registry fees collected under this section to the credit of the appraiser registry account in the general revenue fund.

(e) The national registry fees collected under this section ~~[Subsection (b)]~~ shall be sent to the appraisal subcommittee regularly as required by federal law.

SECTION 4. Section 1104.102(a), Occupations Code, is amended to read as follows:

(a) A person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state may not own in any manner ~~[more than one percent of]~~ an appraisal management company registered or applying for registration under this chapter unless:

(1) the person has subsequently had the ~~[a]~~ license or certificate to act as an appraiser granted or reinstated; and

(2) the license or certificate to act as an appraiser was denied, revoked, or surrendered for a nonsubstantive reason as determined by the board.

SECTION 5. Sections 1104.103(b) and (c), Occupations Code, are amended to read as follows:

(b) The application must contain:

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

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

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

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

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

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

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

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

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

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

SECTION 6. Section 1104.104(b), Occupations Code, is amended to read as follows:

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

(1) must:

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

(B) have completed:

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

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

(2) may not have had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state unless:

(A) the person has subsequently had the [~~a~~] license or certificate to act as an appraiser granted or reinstated; and

(B) the license or certificate to act as an appraiser was denied, revoked, or surrendered for a nonsubstantive reason as determined by the board;

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

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

SECTION 7. Section 1104.105, Occupations Code, is amended to read as follows:

Sec. 1104.105. DENIAL OF REGISTRATION OR RENEWAL. (a) The board may deny an application for [~~a~~] registration or registration renewal:

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

(2) on a determination by the board that:

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

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

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

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

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

SECTION 8. Section 1104.151(b), Occupations Code, is amended to read as follows:

(b) An appraisal management company is not in violation of Subsection (a) if:

(1) the person whose license or certification was denied, revoked, or surrendered in lieu of revocation has subsequently [since that denial, revocation, or surrender] had the [a] license or certificate granted or reinstated;

(2) the license or certification was denied, revoked, or surrendered for a nonsubstantive reason as determined by the board; and

(3) the person maintains the license or certificate in good standing.

SECTION 9. Section 1104.153, Occupations Code, is amended to read as follows:

Sec. 1104.153. APPRAISAL REVIEW. A person who performs an appraisal review for an appraisal management company as required by Section 1104.155 must be:

(1) licensed as an appraiser [or certified] under Chapter 1103, unless exempt by board rule; and

(2) qualified to perform the appraisal [with at least the same certification for the property type as the appraiser who completed the report] being reviewed.

SECTION 10. Section 1104.156, Occupations Code, is amended to read as follows:

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

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

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

SECTION 11. Section 1104.161(a), Occupations Code, is amended to read as follows:

(a) An appraisal management [~~Other than during the first 30 days after the date an appraiser is first added to the appraisal panel of an appraisal management company,~~ a] company may not remove an appraiser from its panel, or otherwise refuse to assign requests for appraisal services to an appraiser without:

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

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

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

SECTION 12. Section 1104.201, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The board may report to the appraisal subcommittee any disciplinary action taken by the board against an appraisal management company required to register under this chapter.

SECTION 13. Section 1104.202, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any other law, an administrative penalty collected under this section must be deposited in a restricted fund maintained and operated by the board to develop educational programs for appraisers or to conduct studies that enhance consumer protection.

SECTION 14. Section 1104.203, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) For purposes of Subsection (a), a fee paid by an appraisal management company to an appraiser for appraisal services is not a financial benefit.

SECTION 15. Section 1104.204(b), Occupations Code, is amended to read as follows:

(b) The board, on its own motion, may file a complaint against:

(1) an appraisal management company registered under this chapter;

(2) a controlling person; or

(3) a person who engages in an activity for which registration is required under this chapter without being registered.

SECTION 16. Section 1104.205, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) An investigation of an alleged violation by a person registered under this chapter may not be terminated solely on the basis that the person fails to renew the registration.

SECTION 17. Section 1104.208(a), Occupations Code, is amended to read as follows:

(a) Based on the report submitted under Section 1104.207, the board may:

(1) order further investigation of the complaint;

(2) permit the person who is the subject of the complaint to participate in a voluntary discussion of the facts and circumstances of the alleged violation;

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

(4) ~~(3)~~ determine that there is probable cause to believe that a violation occurred and enter into an agreed order with the respondent under Section 1104.2081 or proceed as the complainant with a contested case hearing under Chapter 2001, Government Code.

SECTION 18. Subchapter E, Chapter 1104, Occupations Code, is amended by adding Sections 1104.2081 and 1104.2082 to read as follows:

Sec. 1104.2081. AGREED ORDER. (a) The board may negotiate a settlement and enter into an agreed order with an appraisal management company or other person who is the subject of a complaint under this subchapter.

(b) An agreed order must be:

(1) approved by the board; and

(2) signed by the commissioner and the appraisal management company or other person who is the subject of the complaint.

(c) A board member who participates in negotiating an agreed order under this section is disqualified from participating in the adjudication of a contested case that results from the negotiation.

(d) An appraisal management company or other person who consents to negotiate under this section waives the right to notice and the opportunity to be heard under Chapter 2001, Government Code, during the negotiation.

(e) An appraisal management company or other person who enters into an agreed order under this section may be disciplined for failure to comply with the agreed order.

Sec. 1104.2082. CONFIDENTIALITY OF INVESTIGATION MATERIAL.

(a) Information or material, including any investigation file, is confidential and not subject to disclosure under Chapter 552, Government Code, or any other means of legal compulsion for release, including disclosure, discovery, or subpoena, if the information or material is prepared or compiled by the board in connection with a complaint, investigation, or audit of any person subject to the jurisdiction of the board.

(b) Notwithstanding Subsection (a), information or material prepared or compiled by the board in connection with a complaint, investigation, or audit may be disclosed:

(1) to the respondent;

(2) to a person providing a service to the board, including an expert or other witness, or an investigator, if the information is necessary for preparation for, or a presentation in, a disciplinary proceeding against an applicant or license holder, or a subsequent trial or appeal taken from a disciplinary proceeding;

(3) to an entity in another jurisdiction that licenses, registers, credentials, or disciplines any person subject to the jurisdiction of the board;

(4) to a law enforcement agency;

(5) to the State Office of Administrative Hearings; or

(6) to the board, or a panel of the board, for use during any proceeding conducted by the State Office of Administrative Hearings or in a subsequent trial or appeal of a board action or order.

(c) The release of information under Subsection (b) is not a voluntary disclosure for purposes of Section 552.007, Government Code.

(d) The board may require that a confidentiality agreement be signed by a person entitled to receive information under Subsection (b) before releasing the information.

(e) The board may withhold information or material described by Subsection (a) without requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code.

(f) Notwithstanding Subsection (a), on the dismissal or final resolution of a complaint, investigation, or audit, information or material prepared or compiled by the board in connection with the complaint, investigation, or audit, including a completed audit report or a final order of the board, is subject to disclosure under Chapter 321 or 552, Government Code.

SECTION 19. The heading to Section 1104.210, Occupations Code, is amended to read as follows:

Sec. 1104.210. PENALTY TO BE PAID [~~OR HEARING REQUESTED~~].

SECTION 20. Section 1104.212, Occupations Code, is amended to read as follows:

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

SECTION 21. Subchapter E, Chapter 1104, Occupations Code, is amended by adding Sections 1104.2121, 1104.2122, 1104.2131, and 1104.2132 to read as follows:

Sec. 1104.2121. ATTORNEY GENERAL REPRESENTATION. The attorney general may not represent the board in a contested case before the State Office of Administrative Hearings.

Sec. 1104.2122. IMMUNITY OF WITNESSES. (a) The board in a contested case hearing may grant a witness immunity from disciplinary action by the board.

(b) The official record of the hearing must include the reason for granting immunity.

Sec. 1104.2131. RECORD OF PROCEEDINGS. (a) Contested case proceedings shall be recorded by:

(1) mechanical or electrical means; or

(2) a certified shorthand reporter.

(b) At the request of a party, the proceedings or any part of the proceedings shall be transcribed. The expense of the transcription shall be charged to the requesting party.

(c) The recording, stenographic notes, or transcription of oral proceedings shall be maintained by the board until at least the fifth anniversary of the date of the decision in the contested case.

Sec. 1104.2132. FAILURE TO APPEAR; COSTS. (a) If a respondent receives proper notice of a contested case hearing but does not appear in person at the hearing, the administrative law judge may conduct the hearing or enter an order, as the administrative law judge determines appropriate.

(b) The respondent is bound by the results of the hearing to the same extent as if the respondent had appeared.

(c) The administrative law judge may award reasonable costs to the board on a request for and proof of costs incurred if the respondent fails to appear at the hearing. In this subsection, the term "costs" means all costs associated with the hearing, including the costs charged by the State Office of Administrative Hearings and any costs related to hearing preparation, discovery, depositions, subpoenas, service of process, witness expenses, travel expenses, and investigation expenses.

SECTION 22. Section 1104.214, Occupations Code, is amended to read as follows:

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

(1) make findings of fact and conclusions of law; and

(2) issue to the board a proposal for decision that the board ~~shall~~ take one or more of the following actions:

(A) dismiss the charges;

(B) revoke the appraisal management company's registration;

(C) suspend the registration of the appraisal management company for a period of not more than five years;

(D) impose a period of probation, with or without conditions;

(E) issue a public or private reprimand or a warning;

(F) impose an administrative penalty; or

(G) require the payment of costs expended by the board associated with the contested case, including:

(i) attorney's ~~legal~~ fees;

(ii) the costs charged by the State Office of Administrative Hearings; and

(iii) any administrative costs associated with the hearing, including witness expenses, travel expenses, and investigation expenses.

SECTION 23. Section 1104.215, Occupations Code, is amended to read as follows:

Sec. 1104.215. DECISION BY BOARD. (a) Based on the findings of fact, ~~and~~ conclusions of law, and proposal for decision of the administrative law judge ~~[the recommendations of the hearings examiner]~~, the board by order may determine that:

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

(2) a violation did not occur.

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

(1) ~~[separate statements of]~~ the findings of fact and conclusions of law separately stated;

(2) the amount of any penalty imposed or a description of any sanction imposed; ~~[and]~~

(3) a statement of the right of the person to judicial review of the order; and

(4) any other information required by law.

SECTION 24. Section 1104.216, Occupations Code, is amended to read as follows:

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

(1) the specific grounds for rehearing; and

(2) the relief sought.

(b) A motion for rehearing filed under this section is governed by Chapter 2001, Government Code ~~[The application is denied if the board does not grant it before the 120th day after the date the commissioner is served with the application].~~

SECTION 25. Sections 1104.102(b) and (d), Occupations Code, are repealed.

SECTION 26. As soon as practicable after the effective date of this Act, the Texas Appraiser Licensing and Certification Board shall adopt rules and fees necessary to implement Chapter 1104, Occupations Code, as amended by this Act.

SECTION 27. The changes in law made by this Act relating to the eligibility for a registration under Chapter 1104, Occupations Code, or to the requirements for an application under that chapter apply only to an application submitted to the Texas Appraiser Licensing and Certification Board on or after the effective date of this Act. An application submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 28. The changes in law made by this Act relating to the requirements for renewal of a registration under Chapter 1104, Occupations Code, apply only to an application for renewal of a registration that expires on or after the effective date of this Act. A registration that expires before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 29. The changes in law made by this Act apply only to a disciplinary proceeding or a contested case hearing under Chapter 1104, Occupations Code, for 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 on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 30. This Act takes effect September 1, 2017.

The amendment was read.

Senator Hancock moved to concur in the House amendment to **SB 1516**.

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

Absent-excused: Menéndez.

**COMMITTEE SUBSTITUTE
SENATE BILL 1971 ON SECOND READING**

Senator Kolkhorst moved to suspend the regular order of business to take up for consideration **CSSB 1971** at this time on its second reading:

CSSB 1971, Relating to the deposit and allocation of certain funds to the Texas Racing Commission escrow account for purses.

The motion prevailed by the following vote: Yeas 23, Nays 7.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Estes, Garcia, Hall, Hancock, Hinojosa, Hughes, Kolkhorst, Lucio, Miles, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Creighton, Huffines, Huffman, Nelson, Nichols, Taylor of Collin.

Absent-excused: Menéndez.

The bill was read second time.

Senator Kolkhorst offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1971** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 12.020(r), Agriculture Code (page 1, lines 26 and 27), strike "in the escrow account for purses under Section 6.091(e)" and substitute "as provided by Section 6.0912".

(2) In SECTION 3 of the bill, in added Section 6.0912, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), strike page 2, lines 3 through 5, and substitute the following:

Sec. 6.0912. DEPOSITS OF CERTAIN AMOUNTS INTO ESCROW ACCOUNT FOR PURSES. (a) The commission shall deposit, in accordance with this section, the following amounts

(3) In SECTION 3 of the bill, in added Section 6.0912, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (page 2, between lines 15 and 16), insert the following:

(b) In each state fiscal biennium, the commission shall deposit the amounts listed under Subsection (a) of this section and the comptroller shall deposit the amounts allocated under Section 151.801(c-3), Tax Code, into the escrow account for purses established under Section 6.091(e) of this Act, until the comptroller determines the amount deposited into the account in that fiscal biennium equals the greater of:

(1) the amount appropriated to the commission for the purpose of purses for horse or greyhound races for that fiscal biennium; or

(2) \$25 million.

(c) Once the comptroller determines the greater of the amount described by Subsection (b)(1) or (2) has been deposited during a state fiscal biennium into the escrow account for purses established under Section 6.091(e) of this Act, for the remainder of that fiscal biennium:

(1) the commission shall deposit the amounts listed under Subsection (a) of this section into the general revenue fund; and

(2) the comptroller shall deposit the amounts allocated under Section 151.801(c-3), Tax Code, into the general revenue fund.

(4) In SECTION 4 of the bill, in amended Section 11.04(e), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (page 2, line 25), strike "in accordance with" and substitute "as provided by".

(5) In SECTION 5 of the bill, in amended Section 151.801(c-3), Tax Code (page 2, lines 36 through 38), strike "to the credit of the escrow account for purses administered by the Texas Racing Commission and established under Section 6.091" and substitute "in accordance with Section 6.0912".

The amendment to **CSSB 1971** 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: Nelson.

Absent-excused: Menéndez.

Senator Kolkhorst offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1971** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 12.020(r), Agriculture Code (page 1, line 26), strike "escrow account for purses" and substitute "horse industry escrow account".

(2) In SECTION 3 of the bill, in added Section 6.0912, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), strike page 2, lines 3 and 4, and substitute the following:

Sec. 6.0912. DEPOSITS INTO HORSE INDUSTRY ESCROW ACCOUNT.

The commission shall deposit into the horse industry escrow account

(3) In SECTION 5 of the bill, in amended Section 151.801(c-3), Tax Code (page 2, line 37), strike "escrow account for purses" and substitute "horse industry escrow account".

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

SECTION _____. Section 6.091(e), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The purse set aside under Subsection (c)(4) of this section shall be deposited into the horse industry ~~an~~ escrow account in the registry of the commission. Any horse racetrack association in this state may apply to the commission for receipt of all or part of the funds in the ~~escrowed purse~~ account for use as purses. Any state horse breed registry listed in Section 6.08(i) of this Act may apply for receipt of funds in the account for any event that furthers the horse industry. The commission shall determine to which horse racetracks and to which state horse breed registries the funds in the ~~escrowed purse~~ account shall be allocated and in what percentages, taking into consideration purse levels, racing opportunities, and the financial status of a the

requesting racetrack or requesting breed registry. [~~The first distribution of the escrowed purse account allocated to a racetrack under this section may not be made before October 1, 1998.~~]

The amendment to **CSSB 1971** was read.

Senator Kolkhorst offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 3

Amend Floor Amendment No. 2 by Kolkhorst, to **CSSB 1971**, in amended Section 6.091(e), Texas Racing Act, on page 2 after "registry.", by inserting "The commission shall not allocate annually more than 70% of the amount deposited into the horse industry escrow account to horse racetrack associations for use as purses."

The amendment to Floor Amendment No. 2 to **CSSB 1971** 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: Menéndez.

Question recurring on the adoption of Floor Amendment No. 2 to **CSSB 1971**, 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. 2 as amended except as follows:

Absent-excused: Menéndez.

CSSB 1971 as amended was passed to engrossment by the following vote: Yeas 23, Nays 7.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Estes, Garcia, Hall, Hancock, Hinojosa, Hughes, Kolkhorst, Lucio, Miles, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Creighton, Huffines, Huffman, Nelson, Nichols, Taylor of Collin.

Absent-excused: Menéndez.

COMMITTEE SUBSTITUTE SENATE BILL 1971 ON THIRD READING

Senator Kolkhorst moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1971** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Estes, Garcia, Hall, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Miles, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Creighton, Huffines, Nelson, Nichols, Taylor of Collin.

Absent-excused: Menéndez.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 7.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Estes, Garcia, Hall, Hancock, Hinojosa, Hughes, Kolkhorst, Lucio, Miles, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Burton, Creighton, Huffines, Huffman, Nelson, Nichols, Taylor of Collin.

Absent-excused: Menéndez.

SENATE BILL 1541 WITH HOUSE AMENDMENT

Senator Estes called **SB 1541** 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 1541** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the treatment and recycling for beneficial use of drill cuttings.

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

SECTION 1. Section 123.001, Natural Resources Code, is amended by adding Subdivision (4) to read as follows:

(4) "Treatment" means a manufacturing, mechanical, thermal, or chemical process other than sizing, shaping, diluting, or sorting.

SECTION 2. Chapter 123, Natural Resources Code, is amended by adding Section 123.0015 to read as follows:

Sec. 123.0015. BENEFICIAL USE. (a) For the purposes of this chapter, a use of drill cuttings is considered to be beneficial if the cuttings are used:

- (1) in the construction of oil and gas lease pads or oil and gas lease roads; or
- (2) as part of a legitimate commercial product.

(b) The commission by rule shall define "legitimate commercial product" for the purposes of this chapter.

(c) The commission by rule shall adopt criteria for beneficial uses to ensure that a beneficial use of recycled drill cuttings under this chapter is at least as protective of public health, public safety, and the environment as the use of an equivalent product made without recycled drill cuttings.

SECTION 3. Section 123.005, Natural Resources Code, is amended to read as follows:

Sec. 123.005. COMMISSION RULES, PERMITS, AND ORDERS FOR TREATMENT AND BENEFICIAL USE. (a) The commission shall adopt rules to govern the treatment and beneficial use of drill cuttings.

(b) A rule adopted by the commission under this chapter or a permit or order issued by the commission regarding the treatment and beneficial use of drill cuttings must be at least as protective of public health, public safety, and the environment as a rule, permit, or order, respectively, adopted or issued by the commission regarding the disposal of drill cuttings.

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, 2017.

The amendment was read.

Senator Estes moved to concur in the House amendment to **SB 1541**.

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

Absent-excused: Menéndez.

SENATE BILL 549 WITH HOUSE AMENDMENT

Senator Kolkhorst called **SB 549** 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 549** on third reading in SECTION 10 of the bill, in the effective date language, by striking "September 1, 2017" and substituting "January 1, 2018".

The amendment was read.

Senator Kolkhorst moved to concur in the House amendment to **SB 549**.

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

Absent-excused: Menéndez.

(President in Chair)

HOUSE BILL 1526 ON SECOND READING

On motion of Senator Huffman and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1526** at this time on its second reading:

HB 1526, Relating to the provision of state death benefits to peace officers employed by certain private institutions of higher education located in this state.

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1526** (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 1551.114(e), (f), and (g), Insurance Code, are amended to read as follows:

(e) The state [~~An active employee described by Subsection (d) is not eligible to receive a state contribution under Subchapter G for premiums. The community justice assistance division of the Texas Department of Criminal Justice~~] is responsible for payment of the contributions for each of a department's participating active employees and the employees' dependents [~~that the state would make~~] under

Subchapter G [~~if the employees were state employees. Each covered active employee shall pay that portion of the cost of group coverages selected by the employee that exceeds the amount of division contributions~~].

(f) A retired employee is eligible to participate in the group benefits program on application to the board of trustees. On application, a retired employee is automatically covered by the basic coverage for annuitants unless the retired employee specifically waives coverage or unless the retired employee is expelled from the program. ~~The state [A retired employee is not eligible to receive a state contribution under Subchapter G for premiums. The community justice assistance division of the Texas Department of Criminal Justice]~~ is responsible for payment of the contributions for each of a department's retired employees and the retired employees' participating dependents [~~that the state would make~~] under Subchapter G [~~if the retired employees were retired state employees. Each participating retired employee shall pay that portion of the cost of group coverage selected by the retired employee that exceeds the amount of division contributions~~]. The retired employee shall pay contributions required from the retired employee in the manner prescribed by the board of trustees. Each community supervision and corrections department shall notify each of its retired employees of the eligibility for participation and the costs associated with participation.

(g) All contributions received under this section from the state [~~community justice assistance division of the Texas Department of Criminal Justice~~], active employees of community supervision and corrections departments, and retired employees of community supervision and corrections departments for basic, optional, and voluntary coverages under the group benefits program shall be paid into the employees life, accident, and health insurance and benefits fund and shall be used by the board of trustees to provide those coverages as provided by this chapter.

SECTION _____. Section 509.011(a-1), Government Code, and Section 1551.322, Insurance Code, are repealed.

The amendment to **HB 1526** 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: Menéndez.

HB 1526 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: Menéndez.

HOUSE BILL 1526 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 1526** be placed on its third reading and final passage.

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

Absent-excused: Menéndez.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 610 ON SECOND READING**

Senator Huffines moved to suspend the regular order of business to take up for consideration **CSSB 610** at this time on its second reading:

CSSB 610, Relating to the state virtual school network.

The motion prevailed by the following vote: Yeas 21, Nays 9.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Miles, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, West, Whitmire.

Nays: Garcia, Hinojosa, Kolkhorst, Lucio, Nelson, Rodríguez, Uresti, Watson, Zaffirini.

Absent-excused: Menéndez.

The bill was read second time.

Senator Huffines offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 610** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter C, Chapter 30A, Education Code, is amended by adding Section 30A.116 to read as follows:

Sec. 30A.116. STUDY ON EXPANSION TO CERTAIN GRADE LEVELS.

(a) The agency, using existing resources, shall conduct a study regarding the feasibility of offering a full-time electronic course program for a grade level at or above kindergarten and below grade level three. The study must consider:

(1) whether offering courses through the virtual school network to students in those grade levels is appropriate; and

(2) the academic impact on students in those grade levels of offering courses through the virtual school network to those students.

(b) Not later than September 1, 2018, the agency shall submit to the commissioner and each legislative standing committee with primary jurisdiction over public education a report that includes:

(1) the results of the study conducted under this section; and

(2) recommendations regarding offering courses through the virtual school network to students in a grade level at or above kindergarten and below grade level three.

(c) This section expires January 1, 2019.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

The amendment to **CSSB 610** 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: Menéndez.

CSSB 610 as amended was passed to engrossment by the following vote: Yeas 22, Nays 8.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Miles, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, West, Whitmire.

Nays: Garcia, Hinojosa, Kolkhorst, Lucio, Nelson, Rodríguez, Watson, Zaffirini.

Absent-excused: Menéndez.

COMMITTEE SUBSTITUTE SENATE BILL 610 ON THIRD READING

Senator Huffines moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 610** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Lucio, Miles, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, West, Whitmire, Zaffirini.

Nays: Garcia, Hinojosa, Kolkhorst, Nelson, Rodríguez, Watson.

Absent-excused: Menéndez.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 8.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Miles, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, West, Whitmire.

Nays: Garcia, Hinojosa, Kolkhorst, Lucio, Nelson, Rodríguez, Watson, Zaffirini.

Absent-excused: Menéndez.

SENATE BILL 825 ON SECOND READING

Senator Taylor of Galveston moved to suspend the regular order of business to take up for consideration **SB 825** at this time on its second reading:

SB 825, Relating to school district discretion to administer college preparation assessment instruments to public school students at state cost.

The motion prevailed.

Senators Garcia and Rodríguez 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 engrossment by a viva voce vote.

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

Nays: Garcia, Rodríguez.

Absent-excused: Menéndez.

SENATE BILL 825 ON THIRD READING

Senator Taylor of Galveston moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 825** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Miles, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Garcia, Rodríguez.

Absent-excused: Menéndez.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

HOUSE BILL 1774 ON SECOND READING

Senator Hancock moved to suspend the regular order of business to take up for consideration **HB 1774** at this time on its second reading:

HB 1774, Relating to actions on and liability associated with certain insurance claims.

The motion prevailed by the following vote: Yeas 21, Nays 8, Present-not voting 1.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Present-not voting: Miles.

Absent-excused: Menéndez.

The bill was read second time and was passed to third reading by the following vote: Yeas 21, Nays 8, Present-not voting 1. (Same as previous roll call)

REMARKS ORDERED PRINTED

On motion of Senator Taylor of Galveston and by unanimous consent, the remarks by Senators Hancock and Taylor of Galveston regarding **HB 1774** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Taylor of Galveston: Senator Hancock, the bill defines "claim" to mean a first-party claim that is made by an insured under an insurance policy providing coverage for real property or improvements to real property. If a property owner sues

a contractor for defective construction and the contractor sues its insurance company for coverage of that claim under its commercial general liability policy, that lawsuit against the contractor's insurance company is not covered by House Bill 1774, is that correct?

Senator Hancock: That is correct. Existing law would continue to take place.

Senator Taylor of Galveston: These are only for first-party claims, not third-party claims.

Senator Hancock: Correct, and so those provisions relating to that instance that you brought up, existing law would still be intact even as we pass HB 1774.

Senator Taylor of Galveston: Thank you.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

- HB 66** to Committee on Higher Education.
- HB 168** to Committee on Health and Human Services.
- HB 245** to Committee on Criminal Justice.
- HB 855** to Committee on Finance.
- HB 972** to Committee on Education.
- HB 1009** to Committee on Intergovernmental Relations.
- HB 1148** to Committee on Health and Human Services.
- HB 1296** to Committee on Business and Commerce.
- HB 1632** to Committee on Finance.
- HB 1904** to Committee on State Affairs.
- HB 1905** to Committee on Veteran Affairs and Border Security.
- HB 2121** to Committee on State Affairs.
- HB 2886** to Committee on State Affairs.
- HB 2925** to Committee on Finance.
- HB 2962** to Committee on Health and Human Services.
- HB 3204** to Committee on Health and Human Services.
- HB 3218** to Committee on Business and Commerce.
- HB 3236** to Committee on State Affairs.
- HB 3557** to Committee on Finance.
- HB 3674** to Committee on Intergovernmental Relations.

BILLS AND RESOLUTIONS SIGNED

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

SB 7, SB 252, SB 1171, SCR 52, HB 101, HB 394, HB 947, HB 1001, HB 1346, HB 1434, HB 1495, HB 1559, HB 1638, HB 1829, HB 1963, HB 2332, HCR 53.

COMMITTEE SUBSTITUTE SENATE BILL 1696 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSSB 1696** at this time on its second reading:

CSSB 1696, Relating to a periodic study on participation of public schools in a universal lunch program offered through the United States Department of Agriculture.

The motion prevailed by the following vote: Yeas 18, Nays 12.

Yeas: Creighton, Estes, Garcia, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Miles, Rodríguez, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Hall, Huffines, Nelson, Nichols, Perry, Schwertner, Taylor of Collin.

Absent-excused: Menéndez.

The bill was read second time.

Senator Taylor of Galveston offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1696** (senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 33.908, Education Code, is amended to read as follows:

Sec. 33.908. GRACE PERIOD POLICY FOR EXHAUSTED OR INSUFFICIENT MEAL CARD OR ACCOUNT BALANCE. (a) In this section, "regular meal" means a meal for which a school district ordinarily receives reimbursement under the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

(b) A school district that allows students to use a prepaid meal card or account to purchase meals served at the school shall adopt a grace period policy regarding the use of the cards or accounts. The policy:

(1) must allow a student whose meal card or account balance is exhausted or insufficient to continue, for a grace period determined by the board of trustees of the district, to purchase regular meals by:

(A) accumulating a negative balance on the student's card or account;

or

(B) otherwise receiving an extension of credit from the district;

(2) must require the district to make at least one attempt by telephone or e-mail during each week of the grace period to privately:

(A) notify the parent or person standing in parental relation to the student that the student's meal card or account balance is exhausted;

(B) make arrangements with the parent or other person for payment of negative balances or amounts otherwise due, including through use of a payment plan; and

(C) assist the parent or other person in completing an application on behalf of the student for free or reduced-price meals, if it is determined that the student may be eligible for free or reduced-price meals;

(3) must require the district to provide the parent or other person with a written notice of a negative balance or other amount due that includes information on how to obtain an application for free or reduced-price meals;

(4) may not permit the district to charge a fee or interest in connection with meals purchased under Subdivision (1); and

(5) [(4)] may permit the district to set a schedule for repayment on the account balance or other amount due if the district is unable to set a repayment schedule by agreement through efforts required under Subdivision (2) [as part of the notice to the parent or person standing in parental relation to the student].

(c) After expiration of the grace period, the school district may:

(1) permit the student to continue to purchase regular meals in the manner described by Subsection (b)(1); or

(2) provide the student with alternate meals at no cost.

(d) A school district that elects to provide alternate meals must:

(1) privately notify the student's parent or person standing in parental relation to the student of the district's action; and

(2) provide those meals through the same serving line as regular meals.

(e) If a school district provides regular meals to a student under Subsection (c)(1) and is unable at the end of the school year to obtain payment for the meals from the student's parent or person standing in parental relation to the student, the district may pay the negative balance on the student's meal card or account using private donations solicited by the district from individuals and entities for that purpose and maintained in a separate district account. The amount of any private donations received under this subsection is in addition to any reimbursement to which the district is entitled under federal law.

(f) A school district may not publicly identify a student with a negative balance on a meal card or account and must implement any action authorized under this section in a manner that protects the student's privacy. The district's policy must identify the manner in which the district will protect the student's privacy.

SECTION _____. Section 33.908, Education Code, as amended by this Act, applies beginning with the 2017-2018 school year.

The amendment to **CSSB 1696** 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: Menéndez.

CSSB 1696 as amended was passed to engrossment by the following vote: Yeas 18, Nays 12.

Yeas: Creighton, Garcia, Hancock, Hinojosa, Huffines, Huffman, Hughes, Lucio, Miles, Nichols, Rodríguez, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Estes, Hall, Kolkhorst, Nelson, Perry, Schwertner, Taylor of Collin.

Absent-excused: Menéndez.

SENATE BILL 1052 WITH HOUSE AMENDMENTS

Senator Hughes called **SB 1052** 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 1052** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to debt cancellation agreements offered in connection with certain retail installment contracts and leases for vehicles and deferred payments under motor vehicle retail installment contracts; providing for a civil penalty.

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

SECTION 1. Section 345.005, Finance Code, is amended to read as follows:

Sec. 345.005. ITEMIZED CHARGE. An amount charged to a retail buyer in a retail installment contract or retail charge agreement is an itemized charge if the amount is not included in the cash price and is the amount of:

(1) fees prescribed by law for filing, recording, or otherwise perfecting, releasing, or satisfying a security interest created in connection with a retail installment transaction or nonfiling insurance premiums as authorized by Section 345.212;

(2) fees for registration or a certificate of title;

(3) any taxes;

(4) fees or charges prescribed by law and connected with the sale or inspection of the goods or services subject to the contract or agreement;

(5) premiums and other charges for insurance authorized by Subchapter E;

(6) official fees for a construction permit or the filing or recording of a construction permit;

(7) a documentary fee authorized under Section 345.251; ~~and~~

(8) in a retail installment transaction involving modernization, rehabilitation, repair, alteration, improvement, or construction of real property, reasonable and necessary costs, including amounts, paid by the holder:

(A) for title insurance or title examination and opinion that does not exceed the amount set by the commissioner of insurance for title insurance for the transaction;

(B) to a person who is not a salaried employee of the holder for an appraisal or inspection or for investigating the credit standing or creditworthiness of the retail buyer; or

(C) to an attorney who is not a salaried employee of the holder as a legal fee for the preparation of documents in connection with the transaction; and

(9) charges for a debt cancellation agreement under Chapter 354.

SECTION 2. Subchapter B, Chapter 345, Finance Code, is amended by adding Section 345.084 to read as follows:

Sec. 345.084. DEBT CANCELLATION AGREEMENT. A debt cancellation agreement under Chapter 354 may be offered in connection with a retail installment contract for a covered vehicle to which this chapter applies. For purposes of this section, "covered vehicle" has the meaning assigned by Section 354.001.

SECTION 3. Section 348.114, Finance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) If a retail installment contract that provides for a time price differential that is computed using the add-on method or the scheduled installment earnings method is amended to defer all or a part of one or more installments for not longer than three months, the holder may collect from the retail buyer:

(1) a deferment charge in an amount computed on the amount deferred for the period of deferment at a rate that does not exceed the effective return for time price differential permitted for a monthly payment retail installment contract; and

(2) the amount of the additional cost to the holder for:

(A) premiums for continuing in force any insurance coverages provided for by the contract; and

(B) any additional necessary official fees.

(c) If a retail installment contract that provides for a time price differential that is computed using the true daily earnings method is amended to defer all or a part of one or more installments, the holder may charge and receive from the retail buyer time price differential on the unpaid balance of the contract at the rate agreed to in the contract. At the time of deferment, the holder must provide the following written notice to the retail buyer that is boldfaced, capitalized, or underlined or otherwise conspicuously set out from any surrounding written material: "FINANCE CHARGES WILL CONTINUE TO ACCRUE ON THE UNPAID BALANCE AT THE CONTRACT RATE. BY DEFERRING ONE OR MORE INSTALLMENTS, YOU WILL PAY MORE FINANCE CHARGES THAN ORIGINALLY DISCLOSED." A holder does not collect a deferment charge by the accrual of time price differential on the unpaid balance of the contract.

SECTION 4. Section 348.124(a), Finance Code, is amended to read as follows:

(a) In connection with a retail installment transaction under this chapter, a retail seller may offer to the retail buyer a debt cancellation agreement, including a guaranteed asset protection waiver or similarly named agreement. If the retail installment transaction requires insurance coverage as part of the retail buyer's responsibility to the holder, the debt cancellation agreement, guaranteed asset protection waiver, or similarly named agreement must be offered under Chapter 354. The retail seller may not require that the purchase of a debt cancellation agreement by the retail buyer be made in order to enter into a retail installment transaction.

SECTION 5. Section 348.208(b), Finance Code, is amended to read as follows:

(b) A retail installment contract may include as a separate charge an amount for:

(1) motor vehicle property damage or bodily injury liability insurance;

(2) mechanical breakdown insurance;

(3) participation in a motor vehicle theft protection plan;

(4) insurance to reimburse the retail buyer for the amount computed by subtracting the proceeds of the buyer's basic collision policy on the motor vehicle from the amount owed on the vehicle if the vehicle has been rendered a total loss;

(5) a warranty or service contract relating to the motor vehicle;

(6) an identity recovery service contract; or

(7) a debt cancellation agreement, including a debt cancellation agreement under Chapter 354, if the agreement is included as a term of a retail installment contract under Section 348.124.

SECTION 6. Subchapter G, Chapter 348, Finance Code, is redesignated as Chapter 354, Finance Code, and amended to read as follows:

CHAPTER 354 [SUBCHAPTER G]. [CERTAIN] DEBT CANCELLATION AGREEMENTS FOR CERTAIN RETAIL VEHICLE INSTALLMENT SALES

Sec. 354.001. DEFINITIONS. In this chapter:

(1) "Contract" means a retail installment contract made under Chapter 345 or 348.

(2) "Covered vehicle" includes a self-propelled or towed vehicle designed for personal use, including an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat, personal watercraft, and personal watercraft trailer.

(3) "Debt cancellation agreement" means a contract term or a contractual arrangement modifying a contract term under which a retail seller or holder agrees to cancel all or part of an obligation of the retail buyer to repay an extension of credit from the retail seller or holder on the occurrence of the total loss or theft of the covered vehicle that is the subject of the contract but does not include an offer to pay a specified amount on the total loss or theft of the covered vehicle.

(4) "Holder" means a person who is:

(A) a retail seller; or

(B) the assignee or transferee of a contract.

(5) "Retail buyer" means a person who purchases or agrees to purchase a covered vehicle from a retail seller in a retail installment transaction.

(6) "Retail seller" means a person in the business of selling covered vehicles to retail buyers in retail installment transactions.

Sec. 354.002 [348.601]. LIMITATION ON CERTAIN DEBT CANCELLATION AGREEMENTS. (a) This chapter [subchapter] applies only to a debt cancellation agreement that includes insurance coverage as part of the retail buyer's responsibility to the holder.

(b) The amount charged for a debt cancellation agreement made in connection with a [retail installment] contract may not exceed five percent of the amount financed pursuant to the [retail installment] contract. Section 348.124(c) does not apply to a debt cancellation agreement regulated under this chapter [subchapter].

(c) The debt cancellation agreement becomes a part of or a separate addendum to the [retail installment] contract and remains a term of the [retail installment] contract on the assignment, sale, or transfer by the holder.

(d) A debt cancellation agreement to which this chapter applies is not insurance.

Sec. 354.003 [348.602]. DEBT CANCELLATION AGREEMENTS EXCLUSION LANGUAGE. (a) In addition to the provisions required by Section 354.004 [348.603], a debt cancellation agreement must fully disclose all provisions permitting the exclusion of loss or damage including, if applicable:

- (1) an act occurring after the original maturity date or date of the holder's acceleration of the retail installment contract;
- (2) any dishonest, fraudulent, illegal, or intentional act of any authorized driver that directly results in the total loss of the covered [motor] vehicle;
- (3) any act of gross negligence by an authorized driver that directly results in the total loss of the covered [motor] vehicle;
- (4) conversion, embezzlement, or concealment by any person in lawful possession of the covered [motor] vehicle;
- (5) lawful confiscation by an authorized public official;
- (6) the operation, use, or maintenance of the covered [motor] vehicle in any race or speed contest;
- (7) war, whether or not declared, invasion, insurrection, rebellion, revolution, or an act of terrorism;
- (8) normal wear and tear, freezing, or mechanical or electrical breakdown or failure;
- (9) use of the covered [motor] vehicle for primarily commercial purposes;
- (10) damage that occurs after the covered [motor] vehicle has been repossessed;
- (11) damage to the covered [motor] vehicle before the purchase of the debt cancellation agreement;
- (12) unpaid insurance premiums and salvage, towing, and storage charges relating to the covered [motor] vehicle;
- (13) damage related to any personal property attached to or within the covered [motor] vehicle;
- (14) damages associated with falsification of documents by any person not associated with the retail seller or other person canceling the retail buyer's obligation;
- (15) any unpaid debt resulting from exclusions in the retail buyer's primary physical damage coverage not included in the debt cancellation agreement;
- (16) abandonment of the covered [motor] vehicle by the retail buyer only if the retail buyer voluntarily discards, leaves behind, or otherwise relinquishes possession of the covered [motor] vehicle to the extent that the relinquishment shows intent to forsake and desert the covered [motor] vehicle so that the covered [motor] vehicle may be appropriated by any other person;
- (17) any amounts deducted from the primary insurance carrier's settlement due to prior damages; and
- (18) any loss occurring outside the United States or outside the United States and Canada.

(b) An exclusion of loss or damage not listed in Subsection (a) may be included in a debt cancellation agreement only if the exclusion is disclosed in plain, easy to read language.

Sec. 354.004 [348.603]. REQUIRED DEBT CANCELLATION AGREEMENT LANGUAGE. A debt cancellation agreement must state:

- (1) the contact information of the retail seller, the holder, and any administrator of the agreement;
- (2) the name and address of the retail buyer;
- (3) the cost and term of the debt cancellation agreement;

(4) the procedure the retail buyer must follow to obtain benefits under the terms of the debt cancellation agreement, including a telephone number and address where the retail buyer may provide notice under the debt cancellation agreement;

(5) the period during which the retail buyer is required to notify the retail seller, the holder, or any administrator of the agreement^[7] of any potential loss under the debt cancellation agreement for total loss or theft of the covered [~~motor~~] vehicle;

(6) that in order to make a claim, the retail buyer must provide or complete some or all of the following documents and provide those documents to the retail seller, the holder, or any administrator of the agreement:

(A) a debt cancellation request form;

(B) proof of loss and settlement payment from the retail buyer's primary comprehensive, collision, or uninsured or underinsured motorist policy or other parties' liability insurance policy for the settlement of the insured total loss of the covered [~~motor~~] vehicle;

(C) verification of the retail buyer's primary insurance deductible;

(D) a copy of any police report filed in connection with the total loss or theft of the covered [~~motor~~] vehicle; and

(E) a copy of the damage estimate;

(7) that documentation not described by Subdivision (6) or required by the retail seller, the holder, or any administrator of the agreement is not required to substantiate the loss or determine the amount of debt to be canceled;

(8) that notwithstanding the collection of the documents under Subdivision (6), on reasonable advance notice the retail seller, the holder, or any administrator of the agreement may inspect the retail buyer's covered [~~motor~~] vehicle;

(9) that the retail seller or holder will cancel all or part of the retail buyer's obligation as provided in the debt cancellation agreement on the occurrence of total loss or theft of the covered [~~motor~~] vehicle;

(10) the method to be used to calculate refunds;

(11) the method for calculating the amount to be canceled under the debt cancellation agreement on the occurrence of total loss or theft of a covered [~~motor~~] vehicle;

(12) that purchase of a debt cancellation agreement is not required for the retail buyer to obtain an extension of credit and will not be a factor in the credit approval process;

(13) that in order to cancel the debt cancellation agreement and receive a refund, the retail buyer must provide a written request to cancel to the retail seller, the holder, or any administrator of the agreement;

(14) that if total loss or theft of the covered [~~motor~~] vehicle has not occurred, the retail buyer has 30 days from the date of the [~~retail installment~~] contract or the issuance of the debt cancellation agreement, whichever is later, or a longer period as provided under the debt cancellation agreement, to cancel the debt cancellation agreement and receive a full refund;

(15) that the retail buyer may file a complaint with the commissioner, and include the address, phone number, and Internet website of the Office of Consumer Credit Commissioner; and

(16) that the holder will cancel certain amounts under the debt cancellation agreement for total loss or theft of a covered ~~[motor]~~ vehicle, in the following or substantially similar language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS CONTRACT IN THE CASE OF A TOTAL LOSS OR THEFT OF THE COVERED VEHICLE AS STATED IN THE DEBT CANCELLATION AGREEMENT."

Sec. 354.005 ~~[348.604]~~. APPROVAL OF FORMS FOR DEBT CANCELLATION AGREEMENTS. (a) Debt cancellation agreement forms must be submitted to the commissioner for approval. Debt cancellation agreement forms may include additional language to supplement the terms of the debt cancellation agreement as required by this ~~chapter~~ ~~[subchapter]~~.

(b) If a debt cancellation agreement form is provided to the commissioner for approval, the commissioner has 45 days to approve the form or deny approval of the form. On the written request of the person submitting the form, the commissioner may agree in writing to extend the approval period for an additional 45 days. If after the 45th day, or the 90th day if the commissioner agrees to an extension, the commissioner does not deny the form, the form is considered approved.

(c) If the debt cancellation agreement form is approved by the commissioner or considered approved as provided by Subsection (b), the terms of the debt cancellation agreement are considered to be in compliance with this ~~chapter~~ ~~[subchapter]~~.

(d) The commissioner may deny approval of a form only if the form excludes the language required by Sections 354.003 ~~[348.602]~~ and 354.004 ~~[348.603]~~ or contains any inconsistent or misleading provisions. All form denials may be appealed to the finance commission.

(e) If after approval of a form the Office of Consumer Credit Commissioner discovers that approval could have been denied under Subsection (d), the commissioner may order a retail seller, any administrator of the debt cancellation agreement, or a holder to submit a corrected form for approval. Beginning as soon as reasonably practicable after approval of the corrected form, the retail seller, administrator, or holder shall use the corrected form for all sales.

(f) A debt cancellation agreement form that has been approved by the commissioner is public information subject to disclosure under Chapter 552, Government Code. Section 552.110, Government Code, does not apply to a form approved under this ~~chapter~~ ~~[subchapter]~~.

Sec. 354.006 ~~[348.605]~~. ADDITIONAL REQUIREMENTS FOR DEBT CANCELLATION AGREEMENTS. (a) If a retail buyer purchases a debt cancellation agreement, the retail seller must provide to the retail buyer a true and correct copy of the agreement not later than the 10th day after the date of the ~~[retail installment]~~ contract.

(b) A holder must comply with the terms of a debt cancellation agreement not later than the 60th day after the date of receipt of all necessary information required by the holder or administrator of the agreement to process the request.

(c) A debt cancellation agreement may not knowingly be offered by a retail seller if:

- (1) the ~~[retail installment]~~ contract is already protected by gap insurance; or

(2) the purchase of the debt cancellation agreement is required for the retail buyer to obtain the extension of credit.

(d) This section does not apply to a debt cancellation agreement offered in connection with the purchase of a commercial vehicle.

(e) The sale of a debt cancellation agreement must be for a single payment.

(f) A holder that offers a debt cancellation agreement must report the sale of and forward money received on all such agreements to any designated party as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

(g) Money received or held by a holder or any administrator of a debt cancellation agreement and belonging to an insurance company, holder, or administrator under the terms of a written agreement must be held by the holder or administrator in a fiduciary capacity.

(h) A retail seller that negotiates a debt cancellation agreement and subsequently assigns the contract shall:

(1) maintain documents relating to the agreement that come into the retail seller's possession; and

(2) on request of the Office of Consumer Credit Commissioner, cooperate in requesting and obtaining access to documents relating to the agreement not in the retail seller's possession.

Sec. 354.007 [348.606]. REFUND FOR DEBT CANCELLATION AGREEMENTS. (a) A refund or credit of the debt cancellation agreement fee must be based on the earliest date of:

(1) the prepayment of the [~~retail installment~~] contract in full before the original maturity date;

(2) a demand by the holder for payment in full of the unpaid balance or acceleration;

(3) a request by the retail buyer for cancellation of the debt cancellation agreement; or

(4) the total denial of a debt cancellation request based on one of the exclusions listed in Section 354.003 [348.602], except in the case of a partial loss of the covered [~~motor~~] vehicle.

(b) The refund or credit for the debt cancellation agreement can be rounded to the nearest whole dollar. A refund or credit is not required if the amount of the refund or credit calculated is less than \$5.

(c) If total loss or theft has not occurred, the retail buyer may cancel the debt cancellation agreement not later than the 30th day after the date of the [~~retail installment~~] contract or the issuance of the debt cancellation agreement, whichever is later, or a later date as provided under the debt cancellation agreement. On cancellation, the holder or any administrator of the agreement shall refund or credit the entire debt cancellation agreement fee. A retail buyer may not cancel the debt cancellation agreement and subsequently receive any benefits under the agreement.

(d) A holder may in good faith rely on a computation by any administrator of the agreement of the balance waived, unless the holder has knowledge that the computation is not correct. If a computation by the administrator of the balance waived is not correct, the holder must within a reasonable time of learning that the

computation is incorrect make the necessary corrections or cause the corrections to be made to the retail buyer's account. This subsection does not prevent the holder from obtaining reimbursement from the administrator or another responsible for the debt cancellation agreement or computation.

(e) If the debt cancellation agreement terminates due to the early termination of the contract, the holder shall, not later than the 60th day after the date the debt cancellation agreement terminates:

(1) refund or credit an appropriate amount of the debt cancellation agreement fee; or

(2) cause to be refunded or credited an appropriate amount of the debt cancellation agreement fee by providing written instruction to the appropriate person.

(f) The holder shall ensure that a refund or credit of an amount of a debt cancellation agreement fee made by another person under Subsection (e)(2) is made not later than the 60th day after the date the debt cancellation agreement terminates.

(g) The holder shall maintain records of any refund or credit of an amount of a debt cancellation agreement fee made under Subsection (e) and provide electronic access to those records until the later of the fourth anniversary of the date of the contract or the second anniversary of the date of the refund or credit.

SECTION 7. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. DEBT CANCELLATION AGREEMENTS FOR CERTAIN
VEHICLE LEASES

Sec. 397.001. DEFINITIONS. In this chapter:

(1) "Covered vehicle" includes a self-propelled or towed vehicle designed for personal use, including an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat, personal watercraft, and personal watercraft trailer.

(2) "Debt cancellation agreement" means a lease term or a contractual arrangement modifying a lease term under which a lessor or holder agrees to cancel all or part of an obligation of the lessee to pay the lessor or holder on the occurrence of the total loss or theft of the covered vehicle that is the subject of the lease but does not include an offer to pay a specified amount on the total loss or theft of the covered vehicle.

(3) "Holder" means a person who is:

(A) a lessor; or

(B) the assignee or transferee of a lease.

(4) "Lease" means a lease for a covered vehicle.

Sec. 397.002. APPLICABILITY. This chapter does not apply to a lease that is a retail installment transaction under Section 345.068 or 348.002.

Sec. 397.003. RELATIONSHIP TO INSURANCE. A debt cancellation agreement to which this chapter applies is not insurance.

Sec. 397.004. LIMITATION ON CERTAIN DEBT CANCELLATION AGREEMENTS. (a) This chapter applies only to a debt cancellation agreement, including a gap waiver agreement or other similarly named agreement, that includes insurance coverage as part of the lessee's responsibility to the holder.

(b) The amount charged for a debt cancellation agreement made in connection with a lease may not exceed five percent of the adjusted capitalized cost financed pursuant to the lease.

(c) The debt cancellation agreement becomes a part of or a separate addendum to the lease and remains a term of the lease on the assignment, sale, or transfer by the holder.

Sec. 397.005. DEBT CANCELLATION AGREEMENTS EXCLUSION LANGUAGE. (a) In addition to the provisions required by Section 397.006, a debt cancellation agreement must fully disclose all provisions permitting the exclusion of loss or damage including, if applicable:

(1) an act occurring after the original maturity date or date of the holder's acceleration of the lease;

(2) any dishonest, fraudulent, illegal, or intentional act of any authorized driver that directly results in the total loss of the covered vehicle;

(3) any act of gross negligence by an authorized driver that directly results in the total loss of the covered vehicle;

(4) conversion, embezzlement, or concealment by any person in lawful possession of the covered vehicle;

(5) lawful confiscation by an authorized public official;

(6) the operation, use, or maintenance of the covered vehicle in any race or speed contest;

(7) war, whether or not declared, invasion, insurrection, rebellion, revolution, or an act of terrorism;

(8) normal wear and tear, freezing, or mechanical or electrical breakdown or failure;

(9) use of the covered vehicle for primarily commercial purposes;

(10) damage that occurs after the covered vehicle has been repossessed;

(11) damage to the covered vehicle before the purchase of the debt cancellation agreement;

(12) unpaid insurance premiums and salvage, towing, and storage charges relating to the covered vehicle;

(13) damage related to any personal property attached to or within the covered vehicle;

(14) damages associated with falsification of documents by any person not associated with the lessor or other person canceling the lessee's obligation;

(15) any unpaid debt resulting from exclusions in the lessee's primary physical damage coverage not included in the debt cancellation agreement;

(16) abandonment of the covered vehicle by the lessee only if the lessee voluntarily discards, leaves behind, or otherwise relinquishes possession of the covered vehicle to the extent that the relinquishment shows intent to forsake and desert the covered vehicle so that the covered vehicle may be appropriated by any other person;

(17) any amounts deducted from the primary insurance carrier's settlement due to prior damages; and

(18) any loss occurring outside the United States or outside the United States and Canada.

(b) An exclusion of loss or damage not listed in Subsection (a) may be included in a debt cancellation agreement only if the exclusion is disclosed in plain, easy to read language.

Sec. 397.006. REQUIRED DEBT CANCELLATION AGREEMENT LANGUAGE. A debt cancellation agreement must state:

(1) the contact information of the lessor, the holder, and any administrator of the agreement;

(2) the name and address of the lessee;

(3) the cost and term of the debt cancellation agreement;

(4) the procedure the lessee must follow to obtain benefits under the terms of the debt cancellation agreement, including a telephone number and address where the lessee may provide notice under the debt cancellation agreement;

(5) the period during which the lessee is required to notify the lessor, the holder, or any administrator of the agreement of any potential loss under the debt cancellation agreement for total loss or theft of the covered vehicle;

(6) that in order to make a claim, the lessee must provide or complete some or all of the following documents and provide those documents to the lessor, the holder, or any administrator of the agreement:

(A) a debt cancellation request form;

(B) proof of loss and settlement payment from the lessee's primary comprehensive, collision, or uninsured or underinsured motorist policy or other parties' liability insurance policy for the settlement of the insured total loss of the covered vehicle;

(C) verification of the lessee's primary insurance deductible;

(D) a copy of any police report filed in connection with the total loss or theft of the covered vehicle; and

(E) a copy of the damage estimate;

(7) that documentation not described by Subdivision (6) or required by the lessor, the holder, or any administrator of the agreement is not required to substantiate the loss or determine the amount of debt to be canceled;

(8) that notwithstanding the collection of the documents under Subdivision (6), on reasonable advance notice the lessor, the holder, or any administrator of the agreement may inspect the lessee's covered vehicle;

(9) that the lessor or holder will cancel all or part of the lessee's obligation as provided in the debt cancellation agreement on the occurrence of total loss or theft of the covered vehicle;

(10) the method to be used to calculate refunds;

(11) the method for calculating the amount to be canceled under the debt cancellation agreement on the occurrence of total loss or theft of a covered vehicle;

(12) that purchase of a debt cancellation agreement is not required for the lessee to obtain a lease and will not be a factor in the lease approval process;

(13) that in order to cancel the debt cancellation agreement and receive a refund, the lessee must provide a written request to cancel to the lessor, the holder, or any administrator of the agreement;

(14) that if total loss or theft of the covered vehicle has not occurred, the lessee has 30 days from the date of the lease or the issuance of the debt cancellation agreement, whichever is later, or a longer period as provided under the debt cancellation agreement, to cancel the debt cancellation agreement and receive a full refund; and

(15) that the lessor will cancel certain amounts under the debt cancellation agreement for total loss or theft of a covered vehicle, in the following or substantially similar language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS LEASE IN THE CASE OF A TOTAL LOSS OR THEFT OF THE COVERED VEHICLE AS STATED IN THE DEBT CANCELLATION AGREEMENT."

Sec. 397.007. ADDITIONAL REQUIREMENTS FOR DEBT CANCELLATION AGREEMENTS. (a) If a lessee purchases a debt cancellation agreement, the lessor must provide to the lessee a true and correct copy of the agreement not later than the 10th day after the date of the lease.

(b) A holder must comply with the terms of a debt cancellation agreement not later than the 60th day after the date of receipt of all necessary information required by the holder or administrator of the agreement to process the request.

(c) A debt cancellation agreement may not knowingly be offered by a lessor if:

(1) the lease is already protected by gap insurance; or

(2) the purchase of the debt cancellation agreement is required for the lessee to obtain the lease.

(d) This section does not apply to a debt cancellation agreement offered in connection with the lease of a commercial vehicle.

(e) The sale of a debt cancellation agreement must be for a single payment.

(f) A holder that offers a debt cancellation agreement must report the sale of and forward money received on all such agreements to any designated party as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

(g) Money received or held by a holder or any administrator of a debt cancellation agreement and belonging to an insurance company, holder, or administrator under the terms of a written agreement must be held by the holder or administrator in a fiduciary capacity.

(h) A lessor that negotiates a debt cancellation agreement and subsequently assigns the lease shall maintain documents relating to the agreement that come into the lessor's possession.

Sec. 397.008. REFUND FOR DEBT CANCELLATION AGREEMENTS. (a) A refund or credit of the debt cancellation agreement fee must be based on the earliest date of:

(1) the prepayment of the lease in full before the original maturity date;

(2) a demand by the holder for payment in full of the unpaid balance or acceleration;

(3) a request by the lessee for cancellation of the debt cancellation agreement; or

(4) the total denial of a debt cancellation request based on one of the exclusions listed in Section 397.005, except in the case of a partial loss of the covered vehicle.

(b) The refund or credit for the debt cancellation agreement can be rounded to the nearest whole dollar. A refund or credit is not required if the amount of the refund or credit calculated is less than \$5.

(c) If total loss or theft has not occurred, the lessee may cancel the debt cancellation agreement not later than the 30th day after the date of the lease or the issuance of the debt cancellation agreement, whichever is later, or a later date as provided under the debt cancellation agreement. On cancellation, the holder or any administrator of the agreement shall refund or credit the entire debt cancellation agreement fee. A lessee may not cancel the debt cancellation agreement and subsequently receive any benefits under the agreement.

(d) A holder may in good faith rely on a computation by any administrator of the agreement of the balance waived, unless the holder has knowledge that the computation is not correct. If a computation by the administrator of the balance waived is not correct, the holder must within a reasonable time of learning that the computation is incorrect make the necessary corrections or cause the corrections to be made to the lessee's account. This subsection does not prevent the holder from obtaining reimbursement from the administrator or another responsible for the debt cancellation agreement or computation.

(e) If the debt cancellation agreement terminates due to the early termination of the lease, the holder shall, not later than the 60th day after the date the debt cancellation agreement terminates:

(1) refund or credit an appropriate amount of the debt cancellation agreement fee; or

(2) cause to be refunded or credited an appropriate amount of the debt cancellation agreement fee by providing written instruction to the appropriate person.

(f) The holder shall ensure that a refund or credit of an amount of a debt cancellation agreement fee made by another person under Subsection (e)(2) is made not later than the 60th day after the date the debt cancellation agreement terminates.

(g) The holder shall maintain records of any refund or credit of an amount of a debt cancellation agreement fee made under Subsection (e) and provide electronic access to those records until the later of the fourth anniversary of the date of the lease or the second anniversary of the date of the refund or credit.

Sec. 397.009. ENFORCEMENT. (a) If the attorney general has reason to believe that a person is engaging in, has engaged in, or is about to engage in any method, act, or practice that is a violation of this chapter, the attorney general may bring an action in the name of the state against the person to restrain the person by temporary restraining order, temporary injunction, or permanent injunction from engaging in the method, act, or practice.

(b) An action brought under Subsection (a) may be commenced in the district court of the county in which the person against whom the action is brought resides, has the person's principal place of business, or has done business, in the district court of the county in which any or all parts of the method, act, or practice giving rise to the action occurred, or, on the consent of the parties, in a district court of Travis County. The court may issue a temporary restraining order, temporary injunction, or permanent injunction to restrain or prevent a violation of this chapter and injunctive relief must be issued without bond.

(c) In addition to the request for a temporary restraining order, temporary injunction, or permanent injunction, the attorney general may request, and the trier of fact may award, a civil penalty to be paid to the state in an amount of not more than \$20,000 per violation.

(d) The attorney general may recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including reasonable investigative costs, court costs, and attorney's fees.

SECTION 8. This Act takes effect September 1, 2017.

Floor Amendment No. 1

Amend **CSSB 1052** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2301.002(36), Occupations Code, is amended to read as follows:

(36) "Vehicle lessor" means a person who leases or offers to lease a motor vehicle ~~[- under a lease, transfers]~~ to another person under a lease agreement ~~[the right to possession and use of a motor vehicle titled in the name of the lessor].~~

SECTION _____. Subchapter L, Chapter 2301, Occupations Code, is amended by adding Section 2301.5555 to read as follows:

Sec. 2301.5555. AUTHORITY TO SIGN VEHICLE LEASE AS LESSOR. Notwithstanding Section 2301.251, a licensed vehicle lease facilitator may sign a vehicle lease agreement as a vehicle lessor before the vehicle lease is assigned, transferred, or conveyed to an ultimate lessor.

The amendments were read.

Senator Hughes moved to concur in the House amendments to **SB 1052**.

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

Absent-excused: Menéndez.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

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

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

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Menéndez.

Presiding Officer, Cameron County Regional Mobility Authority: Frank Parker, Cameron County.

Presiding Officer, Camino Real Regional Mobility Authority: Susan Alta Melendez, El Paso County.

Members, Governing Board, Department of Information Resources: Stuart Aaron Bernstein, Travis County; Benjamin Ethan Gatzke, Tarrant County; Linda Ibach Shaunessy, Travis County; Jeffrey William Tayon, Harris County; Rigoberto Villarreal, Hidalgo County; Sonya Elissa Medina Williams, Bexar County.

Presiding Officer, Hidalgo County Regional Mobility Authority: Samuel Deanda, Hidalgo County.

Commissioner, Interstate Commission for Adult Offender Supervision: Elizabeth Camp Elliott, Travis County.

Presiding Officer, North East Texas Regional Mobility Authority: Linda Ryan Thomas, Gregg County.

Counsellor, Office of Public Utility Counsel: Tonya Rae Baer, Travis County.

Members, Risk Management Board, State Office of Risk Management: Rosemary A. Gammon, Collin County; Gerald Fontaine Ladner, Travis County.

Member, Sabine River Compact Administration: Jerry Franklin Gipson, Gregg County.

Member, School Land Board: Gilbert Burciaga, Travis County.

Members, State Bar of Texas: Estrella Escobar, El Paso County; Ricky G. Gonzalez, Bexar County; August W. Harris, Travis County.

Chief Administrative Law Judge, State Office of Administrative Hearings: Lesli Gwen Ginn, Travis County.

Member, State Preservation Board: Iris Hudson Moore, Tarrant County.

Member, State Securities Board: Miguel Romano, Travis County.

Member, Board of Regents, Stephen F. Austin State University: Nelda Luce Blair, Montgomery County.

Members, Texas Appraiser Licensing and Certification Board: Clayton Price Black, Martin County; Ray Bolton, Travis County; James Jefferson Jeffries, Williamson County; Martha Gayle Lynch, El Paso County; Tony F. Peña, Lubbock County; Alejandro Sostre-Odio, Bexar County; Jamie Lou Sanders Wickliffe, Ellis County; Joyce Ann Yannuzzi, Comal County.

Members, Texas Board of Criminal Justice: Emilio Fernando DeAyala, Harris County; Tommy Gene Fordyce, Live Oak County; Larry Don Miles, Randall County; Patrick Lewis O'Daniel, Travis County; Derrelynn Perryman, Tarrant County; Jesse W. Wainwright, Travis County.

Members, Texas Board of Professional Land Surveying: James Henry Cheatham, Parker County; William David Edwards, Wise County; Andrew Wayne Paxton, Lubbock County.

Members, Texas Crime Stoppers Council: Gregory F. New, Ellis County; Jeffrey Byron Smith, Angelina County; Steven Wade Squier, San Jacinto County.

Members, Texas Facilities Commission: Patti C. Jones, Lubbock County; Robert Dartanian Thomas, Travis County.

Members, Board of Directors, Texas Health Services Authority: David Allen, Bexar County; Paula Ellen Anthony-McMann, Smith County; Frederick Joel Buckwold, Harris County; Shannon Kay Sowder Calhoun, Goliad County; Brandon C. Charles, Dallas County; David Clark Fleegeer, Travis County; Matthew J. Hamlin, Denton County; Mark Steven Lane, Burnet County; Andrew Lombardo, Cameron County; Deborah Gray Marino, Bexar County; William A. Phillips, Bexar County; Stephen Yurco, Travis County.

Members, Board of Trustees, Texas Municipal Retirement System: James Paul Jeffers, Nacogdoches County; David A. Landis, Ochiltree County.

COMMITTEE SUBSTITUTE SENATE BILL 1696 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 **CSSB 1696** be placed on its third reading and final passage:

CSSB 1696, Relating to federal lunch programs for public school students, including a study on participation in such programs and school district lunch grace period policies.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Bettencourt, Birdwell, Campbell, Creighton, Estes, Garcia, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Miles, Nichols, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Buckingham, Burton, Hall, Nelson, Perry.

Absent-excused: Menéndez.

The bill was read third time and was passed by the following vote: Yeas 18, Nays 12.

Yeas: Creighton, Garcia, Hancock, Hinojosa, Huffines, Huffman, Hughes, Lucio, Miles, Nichols, Rodríguez, Seliger, Taylor of Galveston, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Estes, Hall, Kolkhorst, Nelson, Perry, Schwertner, Taylor of Collin.

Absent-excused: Menéndez.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Seliger and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Higher Education might meet and consider the following bills tomorrow:

HB 2285, HB 66, HCR 102.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Perry and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Agriculture, Water, and Rural Affairs might meet and consider the following bills today:

HB 338, HB 1083, HB 1730, HB 2798, HB 3185, HB 3433, HB 3907, HB 4291.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Schwertner and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Health and Human Services might meet and consider the following bills today:

HB 3669, HB 3296, HB 3295, HB 1148, HB 3292.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Huffman and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet at Senator Nelson's desk today.

CO-AUTHOR OF SENATE BILL 793

On motion of Senator Miles, Senator West will be shown as Co-author of **SB 793**.

CO-AUTHOR OF SENATE BILL 1173

On motion of Senator Perry, Senator Hall will be shown as Co-author of **SB 1173**.

CO-AUTHOR OF SENATE BILL 1587

On motion of Senator Garcia, Senator Perry will be shown as Co-author of **SB 1587**.

CO-AUTHOR OF SENATE BILL 2051

On motion of Senator Taylor of Galveston, Senator Bettencourt will be shown as Co-author of **SB 2051**.

CO-AUTHOR OF SENATE BILL 2291

On motion of Senator Lucio, Senator Bettencourt will be shown as Co-author of **SB 2291**.

CO-SPONSOR OF HOUSE BILL 29

On motion of Senator Huffman, Senator Bettencourt will be shown as Co-sponsor of **HB 29**.

CO-SPONSOR OF HOUSE BILL 2008

On motion of Senator Buckingham, Senator Rodríguez will be shown as Co-sponsor of **HB 2008**.

CO-SPONSOR OF HOUSE BILL 2079

On motion of Senator Hinojosa, Senator Zaffirini will be shown as Co-sponsor of **HB 2079**.

CO-SPONSOR OF HOUSE BILL 2443

On motion of Senator Zaffirini, Senator Garcia will be shown as Co-sponsor of **HB 2443**.

CO-SPONSOR OF HOUSE CONCURRENT RESOLUTION 45

On motion of Senator West, Senator Birdwell will be shown as Co-sponsor of **HCR 45**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 792 by Nichols, Recognizing the Deep East Texas Council of Governments and Economic Development District on the occasion of its 50th anniversary.

SR 794 by Kolkhorst, Recognizing Milton Fred Paul Fuchs on the occasion of his 90th birthday.

SR 796 by Hughes, Recognizing Clifton L. Holmes on the occasion of his retirement.

Official Designation Resolution

SR 793 by Nichols, Recognizing July 19, 2017, as Back the Badge Day in Hardin County.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 2:09 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 16, 2017

FINANCE — **CSHB 804**

VETERAN AFFAIRS AND BORDER SECURITY — **HB 283** (Amended)

STATE AFFAIRS — **CSHB 2207**

HEALTH AND HUMAN SERVICES — **HB 2425, HB 871, HB 1076, CSHB 2062, HB 3954, HB 1978, SB 95, HB 2124**

BUSINESS AND COMMERCE — **CSSB 1646**

AGRICULTURE, WATER, AND RURAL AFFAIRS — **HB 2180, HB 1946, HB 1921, HB 1771, HB 1573, HB 965, HB 651, HB 572, HB 51, HB 3618, HB 4122, HCR 30, HB 3952, HB 3063, HB 2654, HB 2943, HB 2215, HB 2029**

STATE AFFAIRS — **CSHB 3976**

EDUCATION — **HB 1469, HB 1645, HB 3024, HB 3157, HB 2130, HB 789, HB 639, HB 657, HB 264, CSHB 4056, CSHB 1291, CSHB 878, HB 3563, CSHB 21**

AGRICULTURE, WATER, AND RURAL AFFAIRS — **HB 3227, HCR 105, HB 2378**

BILLS ENGROSSED

May 15, 2017

SB 1353, SB 1553, SB 1561, SB 1605, SB 1683, SB 1786, SB 1963, SB 1994, SB 2141

BILLS AND RESOLUTIONS ENROLLED

May 15, 2017

SB 7, SB 252, SB 1171, SCR 52, SR 772, SR 773, SR 774, SR 775, SR 776, SR 777, SR 778, SR 779, SR 780, SR 782, SR 783, SR 785, SR 786, SR 787, SR 788, SR 789, SR 790

SENT TO SECRETARY OF STATE

May 16, 2017

SJR 38

SENT TO GOVERNOR

May 16, 2017

SB 7, SB 252, SB 1171, SCR 52

SIGNED BY GOVERNOR

May 16, 2017

SB 347, SB 843

