

HOUSE JOURNAL

EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-FIFTH DAY — SUNDAY, MAY 31, 2009

The house met at 1 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 1555).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Absent, Excused — Kuempel.

Absent — Crownover.

The invocation was offered by Representative Edwards.

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

HR 2930 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2930**, suspending the limitations on the conferees for **SB 379**.

HR 2951 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2951**, suspending the limitations on the conferees for **HB 1506**.

HR 2925 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2925**, suspending the limitations on the conferees for **HB 51**.

HR 2928 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2928**, suspending the limitations on the conferees for **SB 1263**.

HR 2950 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2950**, suspending the limitations on the conferees for **HB 2682**.

HR 2947 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2947**, suspending the limitations on the conferees for **HB 3347**.

HR 2927 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2927**, suspending the limitations on the conferees for **HB 2571**.

HR 2911 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2911**, suspending the limitations on the conferees for **HB 2330**.

HR 2922 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2922**, suspending the limitations on the conferees for **HB 1722**.

HR 2924 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2924**, suspending the limitations on the conferees for **SB 1742**.

HR 2934 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2934**, suspending the limitations on the conferees for **SB 2513**.

HR 2898 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2898**, suspending the limitations on the conferees for **HB 1161**.

HR 2900 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2900**, suspending the limitations on the conferees for **HB 2774**.

LEAVE OF ABSENCE GRANTED

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

Legler on motion of Hamilton.

**HR 2869 - ADOPTED
(by Anderson)**

Representative Anderson moved to suspend all necessary rules to take up and consider at this time **HR 2869**.

The motion prevailed.

The following resolution was laid before the house:

HR 2869, In memory of Frances Sturgis of Waco.

HR 2869 was unanimously adopted by a rising vote.

On motion of Representative Hughes, the names of all the members of the house were added to **HR 2869** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Anderson who introduced family members of Frances Sturgis.

**HR 2385 - ADOPTED
(by Geren)**

Representative Geren moved to suspend all necessary rules to take up and consider at this time **HR 2385**.

The motion prevailed.

The following resolution was laid before the house:

HR 2385, Designating the grandchildren of house members as honorary mascots.

HR 2385 was adopted.

HR 2386 - ADOPTED
(by Geren)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **HR 2386**.

The motion prevailed.

The following resolution was laid before the house:

HR 2386, Electing the children of house members to the office of mascot.

HR 2386 was adopted.

HR 1934 - ADOPTED
(by Chisum)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **HR 1934**.

The motion prevailed.

The following resolution was laid before the house:

HR 1934, Granting the Texas DeMolay Association permission to use the house chamber on February 20 and 21, 2010.

HR 1934 was adopted.

SCR 67 - ADOPTED
(Geren - House Sponsor)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **SCR 67**.

The motion prevailed.

The following resolution was laid before the house:

SCR 67, Authorizing the Texas Legislative Council to pay membership dues to the Council of State Governments for state officers.

SCR 67 was adopted by (Record 1556): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishat; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton;

Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel; Legler.

Absent — Alvarado; Bonnen; Castro; Crabb; Crownover; Driver; Gutierrez; Olivo; Ritter.

STATEMENTS OF VOTE

When Record No. 1556 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

When Record No. 1556 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1556 was taken, I was temporarily out of the house chamber. I would have voted yes.

Olivo

(McClendon in the chair)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 44).

CONGRATULATORY AND MEMORIAL CALENDAR

The following congratulatory resolutions were laid before the house:

HCR 267 (by Lewis), Honoring Lettie England of Odessa for her contributions to the community.

HCR 269 (by Isett), Commemorating the 20th anniversary of the founding of the Vietnam Center and Archive at Texas Tech University.

HCR 271 (by Smithee), Honoring the musical drama TEXAS in Palo Duro Canyon on the occasion of its 44th season.

HR 2503 (by Leibowitz), Congratulating Irving Arredondo on being named the 2009 valedictorian of South San Antonio High School.

HR 2504 (by Crownover), Congratulating Thad Bonduris of Denton on earning a master's degree in music education at the University of North Texas.

HR 2524 (by Callegari), Honoring the 2007 Katy High School football team for winning the University Interscholastic League 5A Division II state championship.

HR 2525 (by Callegari), Congratulating Yury Aglyamov, Steven Chen, Bobby Shen, Lilly Shen, and their coach, Jeff Boyd, of the Texas MATHCOUNTS Team on winning the 2009 MATHCOUNTS National Competition.

HR 2529 (by Merritt), Congratulating LaRae and O. D. Hughes of Longview on their 55th wedding anniversary.

HR 2530 (by Merritt), Honoring Matthew Ashley for his service as an intern in the office of Representative Tommy Merritt.

HR 2532 (by McReynolds), Commemorating the 2009 Texas Forestry Association Forest Summit on October 21, 2009.

HR 2533 (by Button, Thompson, Hochberg, C. Howard, and Vo), Honoring Peter D. L. Hwang of Houston for his contributions to his community.

HR 2535 (by Truitt), Honoring Dr. Josie R. Williams of Bryan for her service as president of the Texas Medical Association.

HR 2536 (by Zerwas), Congratulating Phil and Glenda Houston of El Campo on their 50th wedding anniversary.

HR 2537 (by Zerwas), Congratulating Victor and Laurine Poncik of Louise on their 50th wedding anniversary.

HR 2538 (by Maldonado), Commending Travis Bowden for his service as an intern for State Representative Diana Maldonado.

HR 2539 (by Maldonado), Commending Eileen Choudhury for her service in the office of State Representative Diana Maldonado.

HR 2540 (by Leibowitz), Congratulating Miguel Eduardo Chavez Urtaza and Alejandra Gonzalez Deandar of El Paso on their wedding.

HR 2545 (by Christian), Commending Luke Wesley Bullock for his service as a legislative aide for State Representative Wayne Christian.

HR 2546 (by Christian), Honoring David Marshall White for his service as chief of staff for State Representative Wayne Christian.

HR 2547 (by Christian), Commending Tony Keith McDonald for his service as a legislative aide for State Representative Wayne Christian.

HR 2549 (by C. Howard), Commending Glenda Albertson for her service in the office of State Representative Charlie Howard.

HR 2550 (by C. Howard), Commending Zachary D. Almandoz for his service as a legislative intern in the office of State Representative Charlie Howard.

HR 2551 (by C. Howard), Commending Kimbell E. Sadler for her service as a legislative intern in the office of State Representative Charlie Howard.

HR 2553 (by Cook), Congratulating Brianna Brackens of Fairfield on her graduation from the Texas School for the Deaf.

HR 2559 (by Ortiz), Commending Jose "Chito" Vela III for his service as general counsel for Representative Solomon Ortiz, Jr.

HR 2581 (by Alvarado), Congratulating Cynthia Reyna on her receipt of a 2008 Youth Award in engineering and mathematics from the Hispanic Heritage Foundation.

HR 2584 (by C. Turner), Honoring the Fort Worth-area athletes who have been named to the Olimpiade del Tricolore junior olympic baseball team.

HR 2585 (by S. King), Honoring Dr. Virginia Boyd Connally on her receipt of the first Legacy Award from the Abilene Woman's Club.

HR 2587 (by Bonnen), Honoring Angleton Danbury Medical Center on its 40th anniversary.

HR 2588 (by Martinez Fischer), Congratulating The University of Texas team on winning the 2009 Hispanic National Bar Association Moot Court Competition.

HR 2589 (by Martinez Fischer), Congratulating Governor Dolph Briscoe on his receipt of the 2009 Pathfinder Award from the Greater San Antonio Chamber of Commerce and honoring him and his family for their philanthropy in San Antonio.

HR 2590 (by Peña), Congratulating Richard H. Garcia on his 2009 election as mayor of Edinburg.

HR 2592 (by Edwards), Honoring Georgia Provost of Houston for her contributions to the community.

HR 2593 (by Edwards), Honoring Dr. Ulysses Watkins of Houston for his contributions to his fellow citizens.

HR 2594 (by Edwards), Honoring Sister Stella Nash for her service to the Houston community.

HR 2595 (by Edwards), Honoring Linda Pravda Horowitz of Houston for her service to her community.

HR 2596 (by Edwards), Honoring Delores Hadnott of Houston for her community service.

HR 2597 (by Edwards), Honoring Howard E. Jefferson of Houston for his contributions to his fellow citizens.

HR 2598 (by Edwards), Honoring Rabbi Jack Segal of Houston for his contributions to his fellow citizens.

HR 2599 (by Edwards), Honoring Brenda Rogers of Houston for her contributions to her community.

HR 2600 (by Edwards), Honoring Ruthie Hatton of Houston for her community service.

HR 2601 (by Edwards), Honoring Steve Greenberg for his support of Juneteenth activities in Galveston.

HR 2602 (by Edwards), Honoring Tilman Fertitta for his support of Juneteenth activities in Galveston.

HR 2603 (by Edwards), Honoring Jim Jamail for his support of Juneteenth activities in Galveston.

HR 2604 (by Edwards), Honoring Harold T. Thomas for his support of Juneteenth activities in Galveston.

HR 2605 (by Edwards), Honoring Heber Taylor for his support of Juneteenth activities in Galveston.

HR 2606 (by Edwards), Honoring Elizabeth Beasley of Houston for her contributions to the community.

HR 2607 (by Edwards), Honoring Rabbi Roy A. Walter of Houston for his service to the community.

HR 2608 (by Edwards), Honoring Cynthia Pharms of Houston for her contributions to the community.

HR 2609 (by Edwards), Honoring Mary Seamore of Houston for her contributions to the community.

HR 2610 (by Edwards), Honoring the Reverend Darrell Martin for his service to the Houston community.

HR 2611 (by Edwards), Honoring Lenora "Doll" Carter of the Houston Forward Times for her contributions to the community.

HR 2612 (by Edwards), Honoring Rabbi Joseph Ruben Radinsky of Houston for his service to the community.

HR 2613 (by Edwards), Honoring Sandra Massie Hines for her contributions to her fellow citizens.

HR 2614 (by Edwards), Honoring Vergie Miller of Houston for her contributions to the community.

HR 2615 (by Edwards), Honoring Pastor Jeff Berger for his contributions to the Houston community.

HR 2616 (by Edwards), Honoring Rabbi Samuel E. Karff of Houston for his contributions.

HR 2617 (by Edwards), Honoring Claude Cummings of Houston for his contributions to the community.

HR 2618 (by Edwards), Honoring Rabbi Ranon Teller of Congregation Brith Shalom for his contributions to the Greater Houston community.

HR 2619 (by Edwards), Recognizing Hazzan David Propis of Congregation Beth Yeshurun in Houston for his contributions to the community.

HR 2620 was previously adopted.

HR 2621 (by Truitt), Commemorating the 75th anniversary of EECU.

HR 2622 (by Craddick), Honoring Crestview Baptist Church in Midland on the dedication of its new facility.

HR 2624 (by Craddick), Congratulating Carlee and Mary Nelson of Midland on their 60th wedding anniversary.

HR 2625 (by Craddick), Congratulating Patsy and Jerry Swaim on their 50th wedding anniversary.

HR 2626 (by Craddick), Congratulating Miller and Martha Goodman of Midland on their 65th wedding anniversary.

HR 2627 (by McClendon), Congratulating Lisa Waddill on her nomination for 2008-2009 Teacher of the Year at Purple Sage Elementary School.

HR 2628 (by Rodriguez), Commending Erika Martinez for her service as an intern in the office of State Representative Eddie Rodriguez.

HR 2630 (by Hodge), Commending Sandy Pickell for her service as a legislative aide in the office of Representative Terri Hodge.

HR 2631 (by Hodge), Commending Brant R. Bennett for his service as a legislative intern in the office of State Representative Terri Hodge.

HR 2632 (by Hodge), Commending Travis Whetsell for his service as a legislative intern in the office of State Representative Terri Hodge.

HR 2633 (by Gonzalez Toureilles), Congratulating Dustin Sample of Alice High School for being named the 2009 Secondary Teacher of the Year for the Alice Independent School District.

HR 2634 (by Gonzalez Toureilles), Congratulating Elena G. Juarez of Noonan Elementary on being named 2009 Elementary Teacher of the Year for the Alice Independent School District.

HR 2635 (by Gonzalez Toureilles), Congratulating Mirella Escamilla Davis of Bee County on being named Region 8 County Clerk of the Year.

HR 2636 (by Gonzalez Toureilles), Congratulating Norman F. Porter, Sr., on the publication of his book, Atascosa County History through 1912.

HR 2637 (by Frost), Honoring Dr. Pauline J. Harris-Haynes for her service to the Greater New Hope Missionary Baptist Church in Texarkana and to her community.

HR 2638 (by S. Turner and Dutton), Commemorating the 111th anniversary of the founding of St. Paul Missionary Baptist Church in Brookshire.

HR 2639 (by Leibowitz), Congratulating Karla Cruz on being named the 2009 salutatorian of South San Antonio High School.

HR 2640 (by Button), Honoring Elizabeth Catherine Block for her service as a legislative aide in the office of State Representative Angie Chen Button.

HR 2644 (by Pitts), Congratulating Kirbie Day of Maypearl on earning the title of National Polled Hereford Queen.

HR 2648 (by Pitts), Congratulating Cynthia Carter of Waxahachie on being named a Fort Worth Business Press HealthCare Hero.

HR 2651 (by Pitts), Congratulating the Waxahachie High School Lady Indians soccer team on their accomplishments during the 2009 season.

HR 2653 (by Pitts), Honoring the girls choir from the Finley Seventh Grade Center in Waxahachie for its achievements at a 2009 UIL concert and sightreading competition.

HR 2655 (by Pitts), Congratulating Joel T. Allison, president and chief executive of Baylor Health Care System in Dallas, on receiving the 2008 Earl M. Collier Award for Distinguished Health Care Administration from the Texas Hospital Association.

HR 2656 (by Rios Ybarra), Honoring the Lyford High School Lady Bulldogs softball team for its success during the 2009 season.

HR 2657 (by Rios Ybarra), Honoring Lydia Garza for her contributions to the community of Hebronville.

HR 2658 (by Rios Ybarra), Honoring Dick Messbarger of Kingsville for his contributions to the community.

HR 2659 (by Alvarado), Honoring Sylvia G. Rodriguez on the occasion of her retirement from her career with the Texas Legislature.

HR 2661 (by Alvarado), Congratulating Ed Smith of Houston on the occasion of his retirement from Macy's.

HR 2662 (by Gonzales), Congratulating McAllen assistant city manager Pilar Rodriguez on his receipt of the 2008 Professional Manager of the Year in Emergency Management Award from the Texas Chapter of the American Public Works Association.

HR 2664 (by Eiland), Congratulating Amy Lindley Herzog and Gregory James Herzog of Austin on the birth of their son, Nathan James Herzog.

HR 2670 (by Peña), Honoring Ana Jimenez for her achievements as an educator.

HR 2671 (by Peña), Honoring Kathleen Patricia McCartan of Austin on her many achievements.

HR 2672 (by Peña), Honoring Ron Whitlock for his successful career in broadcasting and his outstanding service to his community.

HR 2673 (by Peña), Honoring Pedro Diaz IV for his service as a legislative intern in the office of State Representative Aaron Peña.

HR 2674 (by Hunter), Congratulating Scott A. Holt on his retirement from The University of Texas at Austin Marine Science Institute in 2009.

HR 2676 (by Hunter), Commemorating the 49th annual Texas Jazz Festival in Corpus Christi and honoring the Texas Jazz Festival Society.

HR 2677 (by Hunter), Honoring Nueces Judge Samuel Loyd Neal, Jr., for his public service.

HR 2678 (by Hunter), Honoring Chuck Cazalas for his service as Nueces County Commissioner.

HR 2683 (by Pitts), Congratulating Renda Hickerson on her selection as the 61st First Lady of Waxahachie.

HR 2684 (by Pitts), Congratulating Dan Crownover on his victories at the 2009 Ellis County Youth Expo.

HR 2685 (by Pitts), Congratulating Edwin and Carol Farrar on being named Waxahachie Outstanding Citizens of the Year for 2008.

HR 2686 (by Pitts), Honoring the Midlothian High School Pantherettes for their achievements at the 2009 ShowMakers of America Hawaiian Spring Fling National Dance/Drill Competition.

HR 2690 (by Pitts), Congratulating the students of the Waxahachie High School choir on qualifying for advancement to the University Interscholastic League State Solo/Ensemble Contest.

HR 2691 (by Pitts), Congratulating Kari Kuykendall of the Midlothian FFA on her victories at the Ellis County Youth Expo.

HR 2693 (by Pitts), Congratulating the Waxahachie High School Indians powerlifting team on its successes at the Texas High School Powerlifting Association Region 3 Division 1 regional powerlifting meet.

HR 2694 (by Pitts), Congratulating the Community Problem Solvers from Frank Seale and Walnut Grove Middle Schools in Midlothian on earning the title of 2008-2009 Texas Grand Champion.

HR 2695 (by Pitts), Congratulating John H. Turner, Jr., of Ferris on earning the Pioneer Award from the Texas Farm Bureau District 4.

HR 2697 (by Pitts), Commemorating the 100th anniversary of the founding of Texas PTA.

HR 2699 (by Pitts), Congratulating Dr. Adam Corley of the Brazosport Regional Health System on being named a Top Doctor by H Texas magazine in 2009.

HR 2706 (by Crownover), Congratulating Eric Yang of The Colony on winning the 2009 National Geographic Bee in Washington, D.C.

HR 2707 (by Gallego), Commending retired U.S. Air Force Major General Gerald Prather for his service to this country and to the community of Del Rio.

HR 2709 (by Gallego), Honoring John Jones of Van Horn for his service to Culberson County.

HR 2710 (by Peña), Commemorating the bicentennial in 2010 of the Grito de Dolores, the battle cry issued by Father Miguel Hidalgo y Costilla, the father of Mexican independence and the namesake of Hidalgo County.

HR 2711 (by Marquez), Congratulating Stacie Kathryn Townsend on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2712 (by Marquez), Congratulating Laura Irene Busch on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2713 (by Marquez), Congratulating Mirna Cecilia Contreras on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2714 (by Marquez), Congratulating Davina Heredia on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2715 (by Marquez), Congratulating Ismael Lara on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2716 (by Marquez), Congratulating Damaris Crystal Rosado on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2717 (by Marquez), Congratulating Susana De Anda on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2718 (by Marquez), Congratulating Adriana Gomez Licon on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2719 (by Marquez), Congratulating Jennifer Leigh Aranas on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2721 (by Chavez), Commending Juan Aranda, Jr., of El Paso for his service to his community and as a leader in the labor movement.

HR 2722 (by Marquez), Congratulating Jeanne Collins of El Paso on her receipt of the 2009 Sarah T. Hughes Women Lawyers of Achievement Award from the State Bar of Texas.

HR 2723 (by Marquez), Congratulating Benito F. Perez and Matthew J. Rothblatt of El Paso on the success of their comic book, Spiralmind: Rabbi's Lament.

HR 2724 (by Marquez), Congratulating Sharon Carr of El Paso ISD for receiving a Platinum Star Award from the University of North Texas Department of Library and Information Sciences.

HR 2725 (by Ortiz), Honoring Rudy Garza for his service as the intergovernmental relations director for the City of Corpus Christi.

HR 2734 (by Rios Ybarra), Commending Susan Durham of Jim Wells County for her contributions to South Texas.

HR 2739 (by Marquez), Congratulating Anna Christina Montes on being named a Top Ten Senior at The University of Texas at El Paso.

HR 2740 (by Quintanilla), Congratulating Gary Gandara on his election to the board of the Socorro Independent School District.

HR 2741 (by Quintanilla), Congratulating Craig A. Patton on his reelection as a trustee of the Socorro Independent School District.

HR 2743 (by Quintanilla), Congratulating Michael Najera on his election to the board of the Socorro Independent School District.

HR 2744 (by Quintanilla), Recognizing Raymundo Rodriguez for his service as a trustee of the Socorro Independent School District.

HR 2746 (by Maldonado), Honoring David Puentes for his work as a legislative intern in the office of State Representative Diana Maldonado.

HR 2747 (by Kent), Honoring Dr. James A. Curry for his service to Baylor University and the Bob Bullock Scholars Program.

HR 2749 (by Vaught), Congratulating Lake Highlands Elementary School on the dedication of an official state historical marker.

HR 2750 (by Craddick), Congratulating Elliott Becker Lunson on being named the Distinguished Artist of 2009 by the Arts Assembly of Midland at its annual Celebration of the Arts.

HR 2752 (by Gattis), Commending Rebecca Lester for her service as an intern for State Representative Dan Gattis.

HR 2753 (by Gattis), Honoring Staci Rives for her work as a legislative intern in the office of State Representative Dan Gattis.

HR 2754 (by Craddick), Congratulating Rebekah Powers of Midland Memorial Hospital on her receipt of the 2009 Belinda E. Puetz Award from the National Nursing Staff Development Organization.

HR 2755 (by Truitt), Honoring Andrew L. Wambsganss on his service as the mayor of Southlake.

HR 2756 (by Paxton), Honoring the 2009 graduating class of Allen High School.

HR 2757 (by Paxton), Commending Allen Community Outreach for its contributions to the community.

HR 2758 (by Paxton), Honoring the 2009 graduating class of Prosper High School.

HR 2759 (by Paxton), Honoring the 2009 graduating class of McKinney Boyd High School.

HR 2760 (by Paxton), Honoring the 2009 graduating class of McKinney North High School.

HR 2761 (by Paxton), Honoring the 2009 graduating class of McKinney High School.

HR 2762 (by Paxton), Honoring the 2009 graduating class of Wakeland High School in Frisco.

HR 2763 (by Paxton), Honoring the 2009 graduating class of Liberty High School in Frisco.

HR 2764 (by Paxton), Honoring the 2009 graduating class of Frisco High School.

HR 2765 (by Paxton), Honoring the 2009 graduating class of Legacy Christian Academy in Frisco.

HR 2766 (by Alvarado), Honoring Alan Bernstein for his career as a political reporter with the Houston Chronicle and congratulating him on his new position as director of public affairs for the Harris County Sheriff's Office.

HR 2767 (by P. King), Commemorating the 20th anniversary of the founding of the Texas Wesleyan University School of Law.

HR 2769 (by T. Smith), Honoring the many couples in Morrisdale Estates in Eules who have been married 50 years or more.

HR 2770 (by Hamilton), Honoring Corrinne McWhorter of Silsbee on her 100th birthday.

HR 2771 (by Hopson), Recognizing August 21, 2009, as Moe Bandy Day in Lovelady.

HR 2772 (by Peña), Commending Maria Cristina Chirolla, the Colombian consul general in Houston, for her bravery and achievements.

HR 2774 (by B. Brown), Congratulating Meredith Kate Bell on her achievements as a member of The University of Texas at Tyler softball team.

HR 2776 (by Craddick), Congratulating Jimmy and Karen Patterson of Midland on their 25th wedding anniversary.

HR 2777 (by Peña), Honoring Mitchell Craig Chaney of Brownsville on his outstanding legal career.

HR 2779 (by Kent), Congratulating Katherine Elaine Little and Seth Lewis Hearn on their wedding.

HR 2780 (by Kent), Congratulating Lindsey Yaws and Philip Kent on their wedding.

HR 2781 (by Kent), Congratulating Mary Kathleen Scott and Preston Lockett Neely on their wedding.

The resolutions were adopted.

HR 2959 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2959**, suspending the limitations on the conferees for **HB 2374**.

HR 2960 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2960**, suspending the limitations on the conferees for **HB 3612**.

CONGRATULATORY AND MEMORIAL CALENDAR (consideration continued)

The following memorial resolutions were laid before the house:

SCR 79 (Frost - House Sponsor), Honoring the life of Alonzo John Wemple and his role in the history of this state and nation.

HCR 230 was withdrawn.

HCR 264 (by Homer), In memory of Natalie Rhea Skipworth of Paris, Texas.

HCR 265 (by Homer), In memory of Willie Gray Sapp of Paris, Texas.

HCR 266 (by Homer), In memory of Arlene Wilson Russell of Mount Pleasant.

HCR 270 (by Isett), In memory of Oliver C. Thomas of Lubbock.

HR 1680 was withdrawn.

HR 2527 (by Craddick), In memory of Allan W. "Skip" Dees of Midland.

HR 2541 (by Dunnam), In memory of Hester Beck Willis of Waco.

HR 2548 (by Legler), In memory of Beverly Ann Jackson.

HR 2591 (by Peña), In memory of Pete Diaz, Jr., of Rio Grande City.

HR 2623 (by Craddick), In memory of Dr. Joseph G. Suckarieh of Midland.

HR 2645 (by Pitts), In memory of Paul Dexter Hollabaugh of Waxahachie.

HR 2646 (by Pitts), In memory of Linda Gail Wells of Waxahachie.

HR 2647 (by Pitts), In memory of John Ernest Phillips of Dallas.

HR 2649 (by Pitts), In memory of Donald Shipley Boyd of Waxahachie.

HR 2650 (by Pitts), In memory of James Kenneth Wilson and Nannie Armstrong Wilson of Avalon.

HR 2652 (by Pitts), In memory of Rhonda Renee Mott of Waxahachie.

HR 2654 (by Pitts), In memory of Harold Lloyd Fox of Mansfield.

HR 2660 (by Alvarado), In memory of longtime political reporter Jane Ely of Houston.

HR 2667 (by Pitts), In memory of Charlie E. Pace of Waxahachie.

HR 2668 (by Pitts), In memory of Joseph Edmund Lane of Waxahachie.

HR 2669 (by Peña), In memory of Daryl Paul Hury.

HR 2675 (by Pitts), In memory of Robert B. Borden of Waxahachie.

HR 2679 (by Pitts), In memory of William Otto Edwards, Jr., of Waxahachie, Texas.

HR 2680 (by Pitts), In memory of James E. Weatherford of Waxahachie.

HR 2681 (by Pitts), In memory of Margaret L. Felty of Waxahachie.

HR 2682 (by Pitts), In memory of Dorothy Rogers of Waxahachie.

HR 2687 (by Pitts), Honoring the life of Laura Ellen McMahan of Waxahachie.

HR 2688 (by Vo), In memory of Henry Donald Williams of Houston.

HR 2689 (by Pitts), In memory of Mandy McLane Wilkins of Waxahachie.

HR 2692 (by Pitts), In memory of Louis Alois Slovak of Ennis.

HR 2696 (by Pitts), In memory of Harold Gene Jones of Ennis.

HR 2698 (by Pitts), In memory of Lois Hughey Wynne Erisman.

HR 2700 (by Pitts), In memory of Ralph L. D. Essary of Ennis.

HR 2701 (by Pitts), In memory of Claranell Adams Hines of Peaster.

HR 2702 (by Pitts), In memory of Kitty Kvale of Ennis.

HR 2703 (by Pitts), In memory of Carol J. Clymore of Waxahachie.

HR 2704 (by Pitts), In memory of Roland Glen Rogers of Waxahachie.

HR 2705 (by Pitts), In memory of Charles Raymond Bell, Jr., of Waxahachie.

HR 2708 (by Gallego), In memory of Ricardo B. Calderon of Valentine.

HR 2735 (by Hughes), In memory of Hobbs Williams of Hawkins.

HR 2736 (by Hughes, Smithee, and Phillips), In memory of Franklin Jones, Jr., of Marshall.

HR 2737 (by Riddle, Kent, Anderson, et al.), In memory of Brendon Chase Mooney of Spring.

HR 2742 (by Quintanilla), In memory of Cecilia Trujillo Alvarado of Clint.

HR 2748 (by Kent), In memory of Linda Jean Roland Harrell.

HR 2751 (by Gattis), In memory of Robert Edgar Shotwell of Georgetown.

HR 2778 (by Farias), In memory of John A. Hall of San Antonio.

The resolutions were unanimously adopted by a rising vote.

HOUSE AT EASE

At 2:27 p.m., the chair announced that the house would stand at ease.

(Speaker in the chair)

The speaker called the house to order at 2:53 p.m.

MESSAGE FROM THE SENATE

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

SB 328 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Phillips submitted the conference committee report on **SB 328**.

Representative Phillips moved to adopt the conference committee report on **SB 328**.

The motion to adopt the conference committee report on **SB 328** prevailed (Record 1557): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel; Legler.

Absent — Creighton; Crownover.

STATEMENT OF VOTE

When Record No. 1557 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

HB 2591 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the following conference committee report on **HB 2591**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2591** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hegar
Deuell
Harris

Thompson
Gutierrez
Hamilton
Menendez

On the part of the senate

On the part of the house

HB 2591, A bill to be entitled An Act relating to the regulation of property tax consultants.

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

SECTION 1. Section 1152.156(a), Occupations Code, is amended to read as follows:

(a) In addition to satisfying the requirements of Section 1152.155, an applicant for registration as a property tax consultant must:

(1) complete at least 40 ~~[45]~~ classroom hours of educational courses approved by the executive director, including at least four hours of instruction on laws and legal issues in this state related to property tax consulting services and pass a competency examination under Section 1152.160; or

(2) if the person is eligible for registration under Section 1152.155(b), submit to the commission evidence that the applicant has completed at least four classroom hours of educational programs or courses on the laws and legal issues in this state related to property tax consulting services.

SECTION 2. Section 1152.160, Occupations Code, is amended to read as follows:

Sec. 1152.160. [~~SENIOR PROPERTY TAX CONSULTANT~~] REGISTRATION EXAMINATIONS [~~EXAMINATION~~]. (a) The executive director shall:

(1) adopt an examination for registration as a senior property tax consultant; ~~and~~

(2) adopt an examination for registration as a property tax consultant; and

(3) establish the standards for passing the examinations [~~examination~~].

(b) The department shall offer the examinations [~~examination~~] at times and places designated by the executive director.

(c) To be eligible to take an [~~the~~] examination, an applicant must pay to the department an examination fee.

(d) The examination must~~[-~~

[~~(+)~~] test the applicant's knowledge of:

(1) [~~(A)~~] property taxation;

(2) [~~(B)~~] the property tax system;

(3) [~~(C)~~] property tax administration;

(4) [~~(D)~~] ethical standards; and

(5) [~~(E)~~] general principles of appraisal, accounting, and law as they relate to property tax consulting services; ~~and~~

[~~(2)~~ be graded according to rules adopted by the commission].

(e) An attorney who is licensed to practice law in this state may take the senior property tax consultant registration examination under this section without completing any other eligibility requirements for registration as a senior property tax consultant under this chapter.

(f) The department shall accept, develop, or contract for the examinations required by this section, including the administration of the examination.

SECTION 3. Chapter 1152, Occupations Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. PROHIBITED ACTS

Sec. 1152.231. GENERAL PROHIBITED ACTS. (a) A person required to register under this chapter may not serve as a registered senior property tax consultant for more than 10 registered property tax consultants unless each additional tax consultant sponsored or supervised by the registered senior property tax consultant has for the previous six months:

- (1) been employed and engaged as a tax consultant on a full-time basis;
- (2) performed tax consultant related services as an employee of a property owner; or
- (3) performed licensed appraisal services.

(b) Except for protests filed with the approval of a lessee under Section 41.413, Tax Code, a person required to register under this chapter may not file a protest under Chapter 41, Tax Code, without the approval of the property owner.

(c) A person required to register under this chapter may not falsify an agent appointment, exemption application, protest, or other legal document that is filed with or presented to an appraisal district, an appraisal review board, or a taxing unit.

(d) A person required to register under this chapter may not file a motion or protest concerning residential property on behalf of a person whom the registrant does not represent unless the registrant has authorization from:

- (1) that person; or
- (2) another person, other than the agent or the firm that employs the agent, who is authorized by the person to designate agents under Section 1.111, Tax Code.

Sec. 1152.232. PROHIBITED ACTS: SOLICITATION OF BUSINESS. A person required to register under this chapter may not solicit a property tax consulting assignment by assuring a specific outcome.

Sec. 1152.233. PROHIBITED ACTS: USE OF INTERNET WEBSITE. (a) A person required to register under this chapter may not maintain an Internet website for any purpose associated with the provision of tax consulting services by the registrant that has a domain name or other Internet address that implies that the website is a government website.

(b) A person required to register under this chapter may not use or maintain an Internet website for the purpose of soliciting clients if the website does not identify the company prominently on the home page of the website.

Sec. 1152.234. PROHIBITED ACTS: CERTAIN LEGAL ACTIONS. A person required to register under this chapter may not engage the services of an attorney for purposes of filing an appeal under Chapter 42, Tax Code, without the prior consent of the client.

SECTION 4. Not later than December 31, 2009, the executive director of the Texas Commission of Licensing and Regulation shall accept, develop, or contract for the property tax consultant examination required by Section 1152.160, Occupations Code, as amended by this Act.

SECTION 5. The change in law made by this Act to Section 1152.156(a), Occupations Code, applies only to an application for registration as a property tax consultant that is submitted to the Texas Department of Licensing and Regulation on or after March 1, 2010. An application for registration submitted before that date is governed by the law in effect at the time the application was submitted, and the former law is continued in effect for that purpose.

SECTION 6. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Subchapter E-1, Chapter 1152, Occupations Code, as added by this Act, takes effect January 1, 2010.

Representative Thompson moved to adopt the conference committee report on **HB 2591**.

(Crownover now present)

The motion to adopt the conference committee report on **HB 2591** prevailed by (Record 1558): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel; Legler.

HR 2888 - ADOPTED
(by Raymond)

The following privileged resolution was laid before the house:

HR 2888

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the

conference committee appointed to resolve the differences on **HB 2275**, relating to creating a task force to develop uniform standards for subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties, to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in proposed Section 2(a) of the bill to read as follows:

(a) The Task Force on Uniform County Subdivision Regulation is composed of 23 members as follows:

Explanation: The omission of text is necessary because not all members of the task force will be appointed.

(2) House Rule 13, Sections 9(a)(1), (2), and (3), are suspended to permit the committee to change and omit text not in disagreement and to add text in proposed Section 2(a)(6) of the bill to read as follows:

(6) the secretary of state or a designee of the secretary of state who has expertise in matters affecting colonias;

Explanation: The alteration of text is necessary to allow the secretary of state or a designee of the secretary of state to be a member of the task force.

(3) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to change and omit text not in disagreement in proposed Section 2(b) of the bill to read as follows:

(b) The members of the Task Force on Uniform County Subdivision Regulation shall elect a presiding officer, a secretary, and any other officers the members consider necessary.

Explanation: The omission of text is necessary because not all members of the task force will be appointed. The change of the terms "board considers" to "members consider" is necessary to correct an error.

HR 2888 was adopted by (Record 1559): 141 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter;

Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Zerwas.

Nays — Christian; Elkins; Harper-Brown; Phillips.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel; Legler.

Absent — Sheffield; Woolley.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1559. I intended to vote no.

Weber

HB 2275 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Raymond submitted the following conference committee report on **HB 2275**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2275** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Averitt	Raymond
Estes	Flynn
Eltife	Gonzales
Lucio	Guillen
Zaffirini	Merritt
On the part of the senate	On the part of the house

HB 2275, A bill to be entitled An Act relating to creating a task force to develop uniform standards for subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties.

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

SECTION 1. The legislature finds that the current law regarding the regulation of subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties should be reviewed to ensure that statutory provisions are consistent and clearly achieve the goals of promoting uniform subdivision standards in those counties and enhancing the quality of living for the residents of those subdivisions.

SECTION 2. (a) The Task Force on Uniform County Subdivision Regulation is composed of 23 members as follows:

(1) six members who are county officials or employees responsible for regulating subdivisions under Subchapter B, Chapter 232, Local Government Code, appointed by the executive administrator of the Texas Water Development Board from each of the following counties:

- (A) El Paso;
- (B) Webb;
- (C) Starr;
- (D) Hidalgo;
- (E) Cameron; and
- (F) Nueces;

(2) six members who are members of organizations that represent the interests of colonia residents, appointed by the executive director of the Texas Department of Housing and Community Affairs;

(3) three members who are county officials or employees responsible for regulating subdivisions under Subchapter C, Chapter 232, Local Government Code, appointed by the executive administrator of the Texas Water Development Board;

(4) one member who is a representative of the Texas Water Development Board and is appointed by the executive administrator of the board;

(5) one member who has legal expertise in subdivision regulation appointed by the attorney general to represent the interests of the state;

(6) the secretary of state or a designee of the secretary of state who has expertise in matters affecting colonias;

(7) three members who are appointed by the president of the Texas Association of Builders to represent the interests of builders and land developers;

(8) one member who is a representative of the Texas Conference of Urban Counties appointed by the executive director of that organization; and

(9) one member who is a representative of the County Judges and Commissioners Association of Texas appointed by the president of that association.

(b) The members of the Task Force on Uniform County Subdivision Regulation shall elect a presiding officer, a secretary, and any other officers the members consider necessary.

(c) Appointments to the Task Force on Uniform County Subdivision Regulation shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees.

(d) A member of the task force who is a state or county employee is not entitled to additional compensation for serving on the task force, but is entitled to reimbursement for the member's actual and necessary expenses in attending meetings of the task force and performing other official duties authorized by the presiding officer if the reimbursement is otherwise available to the member as a state or county employee. A member of the task force may not be paid compensation or reimbursement for travel or other expenses from state funds unless the legislature makes a specific appropriation for that purpose.

(e) The Texas Water Development Board shall provide administrative support to the task force, including necessary staff and meeting facilities. The Texas Water Development Board may require the task force to conduct meetings at a location that is geographically convenient to a majority of the members of the task force or in various geographic regions of the state.

(f) The task force, through the Texas Water Development Board, may accept gifts and grants from individuals, private or public organizations, or federal or local funds to support the task force.

(g) Chapter 2110, Government Code, does not apply to the task force.

SECTION 3. The Task Force on Uniform County Subdivision Regulation shall:

(1) research and identify the conflicts and deficiencies in current law regarding the regulation of the development of subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties; and

(2) develop recommendations and draft a proposal for legislation to create uniform standards for the regulation of the development of subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties.

SECTION 4. Not later than December 1, 2010, the Task Force on Uniform County Subdivision Regulation shall submit its findings, recommendations, and proposal for legislation to the standing committees of the senate and house of representatives having primary jurisdiction over border regions or county affairs.

SECTION 5. The Task Force on Uniform County Subdivision Regulation is abolished and this Act expires on September 2, 2011.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Raymond moved to adopt the conference committee report on **HB 2275**.

The motion to adopt the conference committee report on **HB 2275** prevailed by (Record 1560): 118 Yeas, 27 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Berman; Bohac; Bolton; Branch; Brown, B.; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Crownover; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter;

Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Aycock; Bonnen; Brown, F.; Button; Christian; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Elkins; Fletcher; Hancock; Harper-Brown; Hilderbran; Howard, C.; Lewis; Miller, D.; Miller, S.; Parker; Phillips; Riddle; Sheffield; Truitt; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel; Legler.

Absent — Callegari; Strama.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1560. I intended to vote yes.

Craddick

I was shown voting yes on Record No. 1560. I intended to vote no.

Flynn

I was shown voting yes on Record No. 1560. I intended to vote no.

Paxton

When Record No. 1560 was taken, I was in the house but away from my desk. I would have voted yes.

Strama

SB 333 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Jackson submitted the conference committee report on **SB 333**.

Representative Jackson moved to adopt the conference committee report on **SB 333**.

The motion to adopt the conference committee report on **SB 333** prevailed by (Record 1561): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody;

Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel; Legler.

Absent — Mallory Caraway; Smith, W.

SB 1009 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Harper-Brown submitted the conference committee report on **SB 1009**.

Representative Harper-Brown moved to adopt the conference committee report on **SB 1009**.

The motion to adopt the conference committee report on **SB 1009** prevailed by (Record 1562): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel; Legler.

Absent — Davis, J.; Giddings; Smith, W.

STATEMENT OF VOTE

When Record No. 1562 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

HR 2961 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2961**, suspending the limitations on the conferees for **HB 431**.

LEAVE OF ABSENCE GRANTED

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

Hancock on motion of Weber.

HR 2963 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2963**, suspending the limitations on the conferees for **HB 4102**.

HB 1659 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative P. King submitted the following conference committee report on **HB 1659**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1659** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Patrick	P. King
Ellis	Frost
Huffman	Driver
Williams	Vo
On the part of the senate	On the part of the house

HB 1659, A bill to be entitled An Act relating to creating an exception to the offense of unlawful installation of a tracking device.

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

SECTION 1. Section 16.06, Penal Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) It is an affirmative defense to prosecution under this section that the person:

(1) obtained the effective consent of the owner or lessee of the motor vehicle before the electronic or mechanical tracking device was installed;

(2) ~~was a peace officer who installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency;~~

[~~3~~] assisted another whom the person reasonably believed to be a peace officer authorized to install the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency; or

(3) [~~4~~] was a private investigator licensed under Chapter 1702, Occupations Code, who installed the device:

(A) with written consent:

(i) to install the device given by the owner or lessee of the motor vehicle; and

(ii) to enter private residential property, if that entry was necessary to install the device, given by the owner or lessee of the property; or

(B) pursuant to an order of or other authorization from a court to gather information.

(e) This section does not apply to a peace officer who installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

Representative P. King moved to adopt the conference committee report on **HB 1659**.

The motion to adopt the conference committee report on **HB 1659** prevailed by (Record 1563): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler.

Absent — Edwards; Farabee; Hodge; Homer; Mallory Caraway.

STATEMENT OF VOTE

When Record No. 1563 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

HB 2644 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kent submitted the following conference committee report on **HB 2644**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2644** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell
Carona
Uresti

Kent
Shelton
Anchia
Marquez

On the part of the senate

Frost
On the part of the house

HB 2644, A bill to be entitled An Act relating to the designation of the Bankhead Highway as a historic highway.

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

SECTION 1. Subchapter A, Chapter 442, Government Code, is amended by adding Section 442.026 to read as follows:

Sec. 442.026. BANKHEAD HIGHWAY AS TEXAS HISTORIC HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to identify, designate, interpret, and market the Bankhead Highway as a Texas historic highway, for the portion of the Bankhead Highway located in this state.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(c) A designation of the Bankhead Highway as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

SECTION 2. This Act takes effect September 1, 2009.

Representative Kent moved to adopt the conference committee report on **HB 2644**.

The motion to adopt the conference committee report on **HB 2644** prevailed by (Record 1564): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler.

Absent — Corte; Crabb; Edwards.

LEAVE OF ABSENCE GRANTED

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

Taylor on motion of Crownover.

SB 1557 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the conference committee report on **SB 1557**.

Representative Gallego moved to adopt the conference committee report on **SB 1557**.

The motion to adopt the conference committee report on **SB 1557** prevailed by (Record 1565): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alonzo; Alvarado; Anchia; Anderson; Aycocock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Allen; Davis, J.; Edwards; Martinez Fischer.

HB 72 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 72**:

Austin, Texas, May 28, 2009

The Honorable David Dewhurst
 President of the Senate

The Honorable Joe Straus
 Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 72** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona	Guillen
Eltife	Phillips
Hinojosa	Gonzalez Toureilles
Wentworth	Hunter
Zaffirini	Gonzales
On the part of the senate	On the part of the house

HB 72, A bill to be entitled An Act relating to the waiting period for issuing a decree in certain suits for divorce.

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

SECTION 1. Section 6.702, Family Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), the [The] court may not grant a divorce before the 60th day after the date the suit was filed. A decree rendered in violation of this subsection is not subject to collateral attack.

(c) A waiting period is not required under Subsection (a) before a court may grant a divorce in a suit in which the court finds that:

(1) the respondent has been finally convicted of or received deferred adjudication for an offense involving family violence as defined by Section 71.004 against the petitioner or a member of the petitioner's household; or

(2) the petitioner has an active protective order under Title 4 or an active magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure, based on a finding of family violence, against the respondent because of family violence committed during the marriage.

SECTION 2. The change in law made by this Act applies only to a suit for dissolution of a marriage filed on or after the effective date of this Act. A suit for dissolution of a marriage filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Guillen moved to adopt the conference committee report on **HB 72**.

The motion to adopt the conference committee report on **HB 72** prevailed by (Record 1566): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Giddings; Hochberg.

STATEMENT OF VOTE

When Record No. 1566 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

HB 2328 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 2328**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2328** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona
Averitt
Patrick
Van de Putte

Guillen
Riddle
Leibowitz
Creighton
Raymond

On the part of the senate

On the part of the house

HB 2328, A bill to be entitled An Act relating to the punishment for certain fraud offenses committed against elderly individuals.

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

SECTION 1. Section 32.21, Penal Code, is amended by amending Subsection (c) and adding Subsection (e-1) to read as follows:

(c) Except as provided by ~~the~~ Subsections (d), ~~and~~ (e), and (e-1), an offense under this section is a Class A misdemeanor.

(e-1) An offense under this section is increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

SECTION 2. Section 32.31(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

SECTION 3. Section 32.51, Penal Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) An offense described for purposes of punishment by Subsections (c)(1)-(3) is increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. This Act takes effect September 1, 2009.

Representative Guillen moved to adopt the conference committee report on **HB 2328**.

The motion to adopt the conference committee report on **HB 2328** prevailed by (Record 1567): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Dukes; Gallego; Hochberg.

HR 2927 - ADOPTED (by Gonzales)

The following privileged resolution was laid before the house:

HR 2927

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the

conference committee appointed to resolve the differences on **HB 2571** (the licensing and regulation of towing companies and vehicle storage facilities) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in proposed Section 2303.155(h), Occupations Code, to read as follows:

(h) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge a fee under Subsection (b) to the owner of a vehicle stored or parked at the facility as a result of recovery of the vehicle after being stolen if the vehicle owner provides the operator with a copy of the police report or similar report prepared by any law enforcement agency showing that the vehicle was reported stolen.

Explanation: This change is necessary to remove the prohibition on certain fees.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text not included in either the house or senate version of the bill by adding amended Section 2308.208, Occupations Code, to read as follows:

SECTION 8. Section 2308.208, Occupations Code, is amended to read as follows:

Sec. 2308.208. MUNICIPAL OR COUNTY ORDINANCE REGULATING UNAUTHORIZED VEHICLES. The governing body of a [A] municipality or the commissioners court of a county may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

Explanation: This change is necessary to authorize counties to adopt ordinances regulating unauthorized vehicles and towing of motor vehicles.

HR 2927 was adopted by (Record 1568): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez;

Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Burnam; Laubenberg; Smith, W.

HB 2571 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gonzales submitted the following conference committee report on **HB 2571**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2571** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa
Nelson
Carona
Zaffirini
Williams

On the part of the senate

Gonzales
Phillips
McClendon
T. Smith
Pickett

On the part of the house

HB 2571, A bill to be entitled An Act relating to the licensing and regulation of towing companies and vehicle storage facilities; providing penalties.

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

SECTION 1. Section 2308.002, Occupations Code, is amended by amending Subdivisions (3), (6), and (8) and adding Subdivisions (5-a), (7-a), and (8-a) to read as follows:

(3) "Consent tow" means any tow of a motor vehicle in which the tow truck is summoned ~~[initiated]~~ by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include an incident management tow or a private property ~~[a] tow [of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle].~~

(5-a) "Incident management tow" means any tow of a vehicle in which the tow truck is summoned because of a traffic accident or to an incident.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow, including:

(A) an incident management tow; and

(B) a private property tow.

(7-a) "Parking facility authorized agent" means an employee or agent of a parking facility owner with the authority to:

(A) authorize the removal of a vehicle from the parking facility on behalf of the parking facility owner; and

(B) accept service on behalf of the parking facility owner of a notice of hearing requested under this chapter.

(8) "Parking facility owner" means:

(A) an individual, corporation, partnership, limited partnership, limited liability company, association, trust, or other legal entity owning or operating [owner or operator of] a parking facility[, including a lessee, employee, or agent of an owner or operator];

(B) a property owners' association having control under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, over assigned or unassigned parking areas; or

(C) a property owner having an exclusive right under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, to use a parking space.

(8-a) "Private property tow" means any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

SECTION 2. Section 2308.057(a), Occupations Code, is amended to read as follows:

(a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies, including rules for denial of applications and permits if the applicant, a partner, principal, officer, or general manager of the applicant, or other license or permit holder has:

(1) a criminal conviction, or has pleaded guilty or nolo contendere to an offense, before the date of the application, for:

(A) a felony; or

(B) a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds \$500;

(2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties;

(3) failed to submit a license or permit bond in an amount established by the commission;

(4) knowingly submitted false or incomplete information on the application; or

(5) filed an application to permit a tow truck previously permitted by a license or permit holder.

SECTION 3. Subchapter B, Chapter 2308, Occupations Code, is amended by adding Section 2308.0575 to read as follows:

Sec. 2308.0575. RULES ON FEES; CONTRACT FOR STUDY; CONFIDENTIAL INFORMATION. (a) To protect the public health and safety, the commission by rule shall establish:

(1) the fees that may be charged in connection with a private property tow;

(2) the maximum amount that may be charged for fees, other than tow fees, that may be assessed by a towing company in connection with a private property tow; and

(3) a maximum amount that may be charged for the following private property tows:

(A) standard light-duty tows of motor vehicles with a gross weight rating of 10,000 pounds or less;

(B) medium-duty tows of motor vehicles with a gross weight rating of more than 10,000 pounds, but less than 25,000 pounds; and

(C) heavy-duty tows of motor vehicles with a gross weight rating that exceeds 25,000 pounds.

(b) In adopting rules under Subsection (a), the commission shall contract for a study that:

(1) examines towing fee studies conducted by municipalities in this state; and

(2) analyzes the cost of towing services by company, the consumer price index, the geographic area, and individual cost components.

(c) The commission may structure the maximum amounts that may be charged for private property tows based on hourly or flat fees or by geographic location.

(d) The commission shall maintain the confidentiality of information contained in a study conducted under this section that is claimed to be confidential for competitive purposes and may not release information that identifies a person or company. The confidential information is exempt from disclosure under Chapter 552, Government Code.

(e) To protect the confidentiality of the information, the commission shall aggregate the information to the maximum extent possible considering the purpose of the study.

(f) The department shall contract to conduct a study on private property towing fees under this section at least once every two years.

SECTION 4. Section 2308.060, Occupations Code, is amended to read as follows:

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, ~~and~~ continuing education requirements, and maximum amounts that may be charged for fees related to private property tows.

SECTION 5. Section 2308.202, Occupations Code, is amended to read as follows:

Sec. 2308.202. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision if the private property tow fees:

(1) are authorized by commission rule; and

(2) do not exceed the maximum amount authorized by commission rule.

SECTION 6. Section 2308.204, Occupations Code, is amended to read as follows:

Sec. 2308.204. FEES FOR PRIVATE PROPERTY ~~[NONCONSENT]~~ TOWS IN OTHER AREAS. ~~[(a)]~~ In an area in which no political subdivision regulates the fees that may be charged or collected in connection with ~~[for]~~ a private property ~~[nonconsent]~~ tow from private property, a towing company may charge and collect fees ~~[a fee]~~ for the tow of a motor vehicle ~~[from private property]~~ in an amount not to exceed the maximum amount authorized by commission rule ~~[an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located].~~

~~[(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.]~~

SECTION 7. Section 2308.206, Occupations Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) A license or permit holder may not charge a fee related to a nonconsent tow that is not listed in the schedule most recently submitted to the department under this section.

(g) The department may require a license or permit holder that has violated Subsection (e) or (f) to reimburse the vehicle owner or operator for the charges.

SECTION 8. Section 2308.208, Occupations Code, is amended to read as follows:

Sec. 2308.208. MUNICIPAL OR COUNTY ORDINANCE REGULATING UNAUTHORIZED VEHICLES AND TOWING OF MOTOR VEHICLES. The governing body of a [A] municipality or the commissioners court of a county may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 9. Section 2308.252(a), Occupations Code, is amended to read as follows:

(a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G prohibiting unauthorized vehicles are located on the parking facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

(2) the owner or operator of the vehicle has received actual notice from the parking facility owner that the vehicle will be towed at the vehicle owner's or operator's expense if it is in or not removed from an unauthorized space;

(3) the parking facility owner gives notice to the owner or operator of the vehicle under Subsection (b); or

(4) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is:

(A) left in violation of Section 2308.251 or 2308.253; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility.

SECTION 10. Section 2308.255(a), Occupations Code, is amended to read as follows:

(a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

(1) the towing company has received written verification from the parking facility owner that:

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1); or

(B) the owner or operator received notice under Section 2308.252(a)(2) or the parking facility owner gave notice complying with Section 2308.252(a)(3); or

(2) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is:

(A) left in violation of Section 2308.251; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

SECTION 11. Section 2308.256(a), Occupations Code, is amended to read as follows:

(a) A vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality ~~from [in] which the vehicle was towed [parking facility is located]~~, or, if the vehicle was towed from a location that [parking facility] is not ~~[located]~~ in a municipality with [having] a police department, to the sheriff of the county ~~from [in] which the vehicle was towed [parking facility is located]~~:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

SECTION 12. Section 2308.404(c), Occupations Code, is amended to read as follows:

(c) A towing company or parking facility owner who intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for \$1,000 [~~\$300~~] plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

SECTION 13. Section 2308.405, Occupations Code, is amended to read as follows:

Sec. 2308.405. CRIMINAL PENALTY [VIOLATION OF CHAPTER; FINE]. A person commits an offense if the person violates [~~violation of~~] this chapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,500 unless it is shown on trial of the offense that the person knowingly or intentionally violated this chapter, in which event the offense is a Class B misdemeanor.

SECTION 14. Section 2308.451, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the towing company, vehicle storage facility, or parking facility owner [person] or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

(c) If, in a hearing held under this chapter, regardless of whether the court finds that there was probable cause for the removal and storage of a vehicle, the court finds that the towing charge collected exceeded fees regulated by a political subdivision or authorized by this chapter or Chapter 2303, the towing company shall reimburse the owner or operator of the vehicle an amount equal to the overcharge.

SECTION 15. Section 2308.453, Occupations Code, is amended to read as follows:

Sec. 2308.453. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct from [in] which the motor vehicle was towed [storage facility is located].

SECTION 16. Section 2308.454, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the towing company or vehicle storage facility that received the payment fails to furnish to the owner or operator of the vehicle the name, address, and telephone number of the parking facility owner or law enforcement agency that authorized the removal of the vehicle, the towing company or vehicle storage facility that received the payment is liable if the court, after a hearing, does not find probable cause for the removal and storage of the vehicle.

SECTION 17. Section 2308.455, Occupations Code, is amended to read as follows:

Sec. 2308.455. CONTENTS OF NOTICE. The notice under Section 2308.454 must include:

- (1) a statement of:
 - (A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;
 - (B) the information that a request for a hearing must contain; and
 - (C) any filing fee for the hearing;
- (2) the name, address, and telephone number of the towing company that removed the vehicle;
- (3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;
- (4) the name, street address including city, state, and zip code, and telephone number of the person, parking facility [property] owner, or law enforcement agency that authorized the removal of the vehicle; and
- (5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the parking [vehicle storage] facility is located.

SECTION 18. Section 2308.456, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) Except as provided by Subsections [Subsection] (c) and (c-1), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(c-1) The 14-day period for requesting a hearing under Subsection (a) does not begin until the date on which the towing company or vehicle storage facility provides to the vehicle owner or operator the information necessary for the vehicle owner or operator to complete the material for the request for hearing required under Subsections (b)(2) through (6).

SECTION 19. Sections 2308.458(a) and (b), Occupations Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 21st calendar [14th working] day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, the parking facility owner [person] or law enforcement agency that authorized the removal of the vehicle, the towing company, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of the hearing to the towing company and the parking facility owner [person] or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

SECTION 20. Section 2308.460, Occupations Code, is amended to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. (a) An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

(b) The department shall suspend a license holder's license on the license holder's failure to pay a final judgment awarded to an owner or operator of a vehicle before the 60th day after the date of the final judgment. The department must provide notice of the suspension to the license holder at least 30 days before the date the license is to be suspended.

(c) The owner or operator of the vehicle shall submit a certified copy of the final judgment to the department.

(d) On receipt of the certified copy of the unpaid final judgment, the department shall disqualify a person from renewing a license or permit or deny the person the opportunity of taking a licensing examination on the grounds that the person, towing company, or vehicle storage facility has not paid a final judgment awarded to an owner or operator of a vehicle.

(e) The department shall reinstate the license on submission of evidence satisfactory to the department of payment of the final judgment by the person, towing company, or vehicle storage facility.

SECTION 21. Section 2303.159(a), Occupations Code, is amended to read as follows:

(a) The operator of a vehicle storage facility shall accept payment by an electronic check, debit card, or credit card for any charge associated with delivery or storage of a vehicle. The facility shall conspicuously post a sign that states: "This vehicle storage facility must accept payment by an electronic check, credit card, or debit card for any fee or charge associated with delivery or storage of a vehicle." The operator of a vehicle storage facility may not refuse to release a vehicle based on the inability of the facility to accept payment by electronic check, debit card, or credit card of a fee or charge associated with delivery or storage of the vehicle unless the operator, through no fault of the operator, is unable to accept the electronic check, debit card, or credit card because of a power outage or a machine malfunction.

SECTION 22. Not later than September 1, 2010, the Texas Commission of Licensing and Regulation shall adopt the rules necessary to implement the changes in law made by this Act, including rules on the maximum amount of fees that may be charged for private property tows.

SECTION 23. (a) The change in law made by this Act to Section 2308.405, Occupations Code, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

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

SECTION 24. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Section 2308.0575, Occupations Code, as added by this Act, and Sections 2308.202 and 2308.204, Occupations Code, as amended by this Act, take effect September 1, 2010.

Representative Gonzales moved to adopt the conference committee report on **HB 2571**.

The motion to adopt the conference committee report on **HB 2571** prevailed by (Record 1569): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Flores; Laubenberg; Martinez Fischer.

HR 2964 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2964**, suspending the limitations on the conferees for **SB 1068**.

HR 2965 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2965**, suspending the limitations on the conferees for **HB 2139**.

HR 2966 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2966**, suspending the limitations on the conferees for **SB 2080**.

HR 2967 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2967**, suspending the limitations on the conferees for **SB 726**.

HB 269 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Lucio submitted the following conference committee report on **HB 269**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 269** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapleigh

Ogden

Zaffirini

On the part of the senate

Lucio

Berman

Corte

On the part of the house

HB 269, A bill to be entitled An Act relating to course credit for certain students at a public institution of higher education.

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

SECTION 1. Subchapter F, Chapter 51, Education Code, is amended by adding Section 51.3042 to read as follows:

Sec. 51.3042. AWARD OF COURSE CREDIT FOR MILITARY SERVICE. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

(b) An institution of higher education shall award to an undergraduate student who is admitted to the institution, including a student who is readmitted under Section 51.9242, course credit for all physical education courses required by the institution for an undergraduate degree and for additional semester credit hours, not to exceed 12, that may be applied to satisfy any elective course requirements for the student's degree program for courses outside the student's major or minor if the student:

(1) graduated from a public or private high school accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense; and

(2) is an honorably discharged former member of the armed forces of the United States who:

(A) completed at least two years of service in the armed forces; or

(B) was discharged because of a disability.

(c) This section does not prohibit an institution of higher education from awarding additional course credit for a student's military service as the institution considers appropriate.

(d) An institution of higher education may adopt rules requiring reasonable proof from a student of the fact and duration of the student's military service and of the student's military discharge status.

SECTION 2. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9112 to read as follows:

Sec. 51.9112. RESERVE OFFICERS' TRAINING CORPS (ROTC) PROGRAM: FEES AND COURSE CREDIT. (a) The Texas Higher Education Coordinating Board, in consultation with institutions of higher education, shall determine a standard fee for a course offered through a Reserve Officers' Training Corps (ROTC) program that takes into account the average statewide cost per student to an institution of higher education in providing the program, not including any reimbursement or other amounts the institution receives from the applicable military service or other source for offering the course. Except as provided by Subsection (b), the governing board of each institution of higher education may not charge a student enrolled in an ROTC course any amount for the course in excess of the fee as determined by the coordinating board under this subsection.

(b) If the governing board of an institution of higher education offers course credit toward a student's degree for a course in which the student enrolls for the purposes of an ROTC program, the governing board may charge the student tuition for that course as otherwise provided by Chapter 54 after subtracting any reimbursement or other amount the institution receives from the applicable military service or other source for offering the course.

(c) To the extent it will not adversely affect the accreditation status of an institution of higher education with the appropriate accrediting agency, the governing board of the institution shall count courses in which a student enrolls for the purposes of an ROTC program, including courses for which the student does not receive course credit toward the student's degree, in determining whether the student is enrolled as a full-time student.

SECTION 3. Section 51.3042, Education Code, as added by this Act, applies to a student attending an institution of higher education, without regard to whether the student was admitted to the institution before the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Lucio moved to adopt the conference committee report on **HB 269**.

The motion to adopt the conference committee report on **HB 269** prevailed by (Record 1570): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Chisum; Crownover; Davis, J.; Elkins; Flores; Martinez Fischer.

HR 2968 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2968**, suspending the limitations on the conferees for **SB 408**.

HB 666 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gutierrez submitted the following conference committee report on **HB 666**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 666** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Uresti
Whitmire
Hinojosa
Williams
Seliger

On the part of the senate

McReynolds
Geren
Moody
S. King
Gutierrez

On the part of the house

HB 666, A bill to be entitled An Act relating to certain costs used to fund drug court programs.

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

SECTION 1. Article 102.0178(a), Code of Criminal Procedure, is amended to read as follows:

(a) In addition to other costs on conviction imposed by this chapter, a person shall pay \$60 [~~\$50~~] as a court cost on conviction of an offense punishable as a Class B misdemeanor or any higher category of offense under:

- (1) Chapter 49, Penal Code; or
- (2) Chapter 481, Health and Safety Code.

SECTION 2. (a) Section 102.021, Government Code, is amended to conform to Chapter 1263 (**HB 3060**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay the following under the Code of Criminal Procedure, in addition to all other costs:

(1) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . \$4;

(2) a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . \$25;

(3) fees for services of peace officer:

(A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . \$5;

(B) executing or processing an issued arrest warrant, [~~or~~] capias, or capias pro fine (Art. 102.011, Code of Criminal Procedure) . . . \$50;

(C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . \$5;

(D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . \$35;

(E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . \$10;

(F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . \$5;

(G) summoning a jury (Art. 102.011, Code of Criminal Procedure) . . . \$5;

(H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . \$8 each day;

(I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

(J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed \$5;

(4) services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal Procedure) . . . \$10 per day or part of a day, plus actual necessary travel expenses;

(5) overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

(6) court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) . . . \$25;

(7) court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) . . . \$25;

(8) court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) . . . \$20;

(9) cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) . . . \$15;

(10) cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) . . . actual cost;

(11) additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

(12) additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;

(13) cost for DNA testing for certain felonies (Art. 102.020, Code of Criminal Procedure) . . . \$250;

(14) court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) . . . \$50;

(15) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) . . . \$12; ~~and~~

(16) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge; and

(17) costs attendant to convictions under Chapter 49, Penal Code, and under Chapter 481, Health and Safety Code, to help fund drug court programs established under Chapter 469, Health and Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$60.

(b) Section 102.0215, Government Code, is repealed.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

Representative Gutierrez moved to adopt the conference committee report on **HB 666**.

The motion to adopt the conference committee report on **HB 666** prevailed by (Record 1571): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Flores; Isett.

HR 2911 - ADOPTED (by Guillen)

The following privileged resolution was laid before the house:

HR 2911

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2330**, laboratory tests measuring kidney function, to consider and take action on the following matter:

House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text to added Section 42.0047, Health and Safety Code, so that it reads as follows:

Sec. 42.0047. ESTIMATED GLOMERULAR FILTRATION RATE REPORTING. (a) A laboratory that performs a serum creatinine test on a sample from a person 18 years of age or older shall also calculate and include in the reported results the person's estimated glomerular filtration rate or the results of an alternative equivalent calculation measuring kidney function if the laboratory

receives along with the sample all relevant clinical information about the person necessary to calculate the person's estimated glomerular filtration rate or perform an alternative equivalent calculation. A physician requesting a serum creatinine test shall provide to the laboratory all relevant clinical information about the person necessary to calculate the person's estimated glomerular filtration rate or perform an alternative equivalent calculation unless the physician determines that the calculation is unnecessary.

(b) The requirements under Subsection (a) do not apply to:

(1) a laboratory that uses equipment to perform serum creatinine tests that cannot be reprogrammed to calculate the estimated glomerular filtration rate or perform an alternative equivalent calculation measuring kidney function; or

(2) a laboratory performing a serum creatinine test on a sample taken from a patient who is being treated in a hospital.

Explanation: This change is necessary to allow a laboratory to perform an alternative equivalent calculation measuring a person's kidney function.

HR 2911 was adopted by (Record 1572): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Callegari; Chavez; Deshotel; Flores; McCall.

HB 2330 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 2330**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2330** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell	Guillen
Van de Putte	Naishtat
Nichols	Kolkhorst
Shapleigh	Zerwas
Zaffirini	S. King
On the part of the senate	On the part of the house

HB 2330, A bill to be entitled An Act relating to laboratory tests measuring kidney function.

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

SECTION 1. Section 42.002, Health and Safety Code, is amended by adding Subdivisions (3) and (4) to read as follows:

(3) "Serum creatinine test" is a diagnostic test of a person's blood that measures the level of creatinine present in the blood.

(4) "Estimated glomerular filtration rate" is a calculation of a person's kidney function based on:

(A) the person's age, race, and gender; and

(B) the results of the person's serum creatinine test.

SECTION 2. Chapter 42, Health and Safety Code, is amended by adding Section 42.0047 to read as follows:

Sec. 42.0047. ESTIMATED GLOMERULAR FILTRATION RATE REPORTING. (a) A laboratory that performs a serum creatinine test on a sample from a person 18 years of age or older shall also calculate and include in the reported results the person's estimated glomerular filtration rate or the results of an alternative equivalent calculation measuring kidney function if the laboratory receives along with the sample all relevant clinical information about the person necessary to calculate the person's estimated glomerular filtration rate or perform an alternative equivalent calculation. A physician requesting a serum creatinine test shall provide to the laboratory all relevant clinical information about the person necessary to calculate the person's estimated glomerular filtration rate or perform an alternative equivalent calculation unless the physician determines that the calculation is unnecessary.

(b) The requirements under Subsection (a) do not apply to:

(1) a laboratory that uses equipment to perform serum creatinine tests that cannot be reprogrammed to calculate the estimated glomerular filtration rate or perform an alternative equivalent calculation measuring kidney function; or

(2) a laboratory performing a serum creatinine test on a sample taken from a patient who is being treated in a hospital.

SECTION 3. The change in law made by this Act applies only to a serum creatinine test performed on or after the effective date of this Act. A serum creatinine test performed before the effective date of this Act is covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.

Representative Guillen moved to adopt the conference committee report on **HB 2330**.

The motion to adopt the conference committee report on **HB 2330** prevailed by (Record 1573): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Cohen; Eiland; King, P.

HB 2833 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Marquez submitted the following conference committee report on **HB 2833**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2833** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Averitt	Marquez
Gallegos	Ritter
Nichols	Deshotel
Huffman	Chisum
Shapleigh	Harless
On the part of the senate	On the part of the house

HB 2833, A bill to be entitled An Act relating to certain building code standards applicable to the unincorporated areas of certain counties; providing a penalty.

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

SECTION 1. Chapter 233, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. RESIDENTIAL BUILDING CODE STANDARDS
APPLICABLE TO UNINCORPORATED AREAS OF CERTAIN COUNTIES

Sec. 233.151. DEFINITIONS. (a) In this subchapter, "new residential construction" includes:

(1) residential construction of a single-family house or duplex on a vacant lot; and

(2) construction of an addition to an existing single-family house or duplex, if the addition will increase the square footage or value of the existing residential building by more than 50 percent.

(b) The term does not include a structure that is constructed in accordance with Chapter 1201, Occupations Code, or a modular home constructed in accordance with Chapter 1202, Occupations Code.

Sec. 233.152. APPLICABILITY. This subchapter applies only to a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

(1) is located within 50 miles of an international border; or

(2) has a population of more than 100.

Sec. 233.153. BUILDING CODE STANDARDS APPLICABLE. (a) New residential construction of a single-family house or duplex in the unincorporated area of a county to which this subchapter applies shall conform to the version of the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county.

(b) Standards required under this subchapter apply only to new residential construction that begins after September 1, 2009.

(c) If a municipality located within a county to which this subchapter applies has adopted a building code in the municipality's extraterritorial jurisdiction, the building code adopted by the municipality controls and building code standards under this subchapter have no effect in the municipality's extraterritorial jurisdiction.

(d) This subchapter may not be construed to:

(1) require prior approval by the county before the beginning of new residential construction;

(2) authorize the commissioners court of a county to adopt or enforce zoning regulations; or

(3) affect the application of the provisions of Subchapter B, Chapter 232, to land development.

(e) In the event of a conflict between this subchapter and Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter 232, control.

(f) A county may not charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

Sec. 233.154. INSPECTION AND NOTICE REQUIREMENTS. (a) A person who builds new residential construction described by Section 233.153 shall have the construction inspected to ensure building code compliance in accordance with this section as follows:

(1) for new residential construction on a vacant lot, a minimum of three inspections must be performed during the construction project to ensure code compliance, as applicable, at the following stages of construction:

(A) the foundation stage, before the placement of concrete;

(B) the framing and mechanical systems stage, before covering with drywall or other interior wall covering; and

(C) on completion of construction of the residence;

(2) for new residential construction of an addition to an existing residence as described by Section 233.151(a)(2), the inspections under Subdivision (1) must be performed as necessary based on the scope of work of the construction project; and

(3) for new residential construction on a vacant lot and for construction of an addition to an existing residence, the builder:

(A) is responsible for contracting to perform the inspections required by this subsection with:

(i) a licensed engineer;

(ii) a registered architect;

(iii) a professional inspector licensed by the Texas Real Estate

Commission;

(iv) a plumbing inspector employed by a municipality and licensed by the Texas State Board of Plumbing Examiners;

(v) a building inspector employed by a political subdivision; or

(vi) an individual certified as a residential combination inspector by the International Code Council; and

(B) may use the same inspector for all the required inspections or a different inspector for each required inspection.

(b) If required by a county to which this subchapter applies, before commencing new residential construction, the builder shall provide notice to the county on a form prescribed by the county of:

(1) the location of the new residential construction;

(2) the approximate date by which the new residential construction will be commenced; and

(3) the version of the International Residential Code that will be used to construct the new residential construction before commencing construction.

(c) If required by the county, not later than the 10th day after the date of the final inspection under this section, the builder shall submit notice of the inspection stating whether or not the inspection showed compliance with the building code standards applicable to that phase of construction in a form required by the county to:

(1) the county employee, department, or agency designated by the commissioners court of the county to receive the information; and

(2) the person for whom the new residential construction is being built, if different from the builder.

Sec. 233.155. ENFORCEMENT OF STANDARDS. If proper notice is not submitted in accordance with Sections 233.154(b) and (c), the county may take any or all of the following actions:

(1) refer the inspector to the appropriate regulatory authority for discipline;

(2) in a suit brought by the appropriate attorney representing the county in the district court, obtain appropriate injunctive relief to prevent a violation or threatened violation of a standard or notice required under this subchapter from continuing or occurring;

(3) refer the builder for prosecution under Section 233.157.

Sec. 233.156. EXISTING AUTHORITY UNAFFECTED. The authority granted by this subchapter does not affect the authority of a commissioners court to adopt an order under other law.

Sec. 233.157. PENALTY. (a) A person commits an offense if the person fails to provide proper notice in accordance with Sections 233.154(b) and (c).

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

(c) An individual who fails to provide proper notice in accordance with Sections 233.154(b) and (c) is not subject to a penalty under this subsection if:

(1) the new residential construction is built by the individual or the individual acts as the individual's own contractor; and

(2) the individual intends to use the residence as the individual's primary residence.

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, 2009.

Representative Marquez moved to adopt the conference committee report on **HB 2833**.

The motion to adopt the conference committee report on **HB 2833** prevailed by (Record 1574): 72 Yeas, 71 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bolton; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; England; Farabee; Farias; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Harless; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; Kent; Leibowitz; Lucio; Maldonado; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Otto; Patrick; Phillips; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Strama; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycocock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Christian; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frost; Gattis; Geren; Hamilton; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hopson; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Lewis; Madden; Mallory Caraway; McCall; Merritt; Miller, D.; Miller, S.; Morrison; Orr; Parker; Paxton; Pitts; Riddle; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — King, T.; Peña.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1574. I intended to vote yes.

F. Brown

I was shown voting no on Record No. 1574. I intended to vote yes.

Fletcher

When Record No. 1574 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

I was shown voting yes on Record No. 1574. I intended to vote no.

McReynolds

I was shown voting no on Record No. 1574. I intended to vote yes.

Riddle

I was shown voting no on Record No. 1574. I intended to vote yes.

Rose

HB 3218 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Naishtat submitted the following conference committee report on **HB 3218**:

Austin, Texas, May 24, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3218** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona	Naishtat
Deuell	Herrero
Duncan	Phillips
Van de Putte	Patrick
Zaffirini	T. King
On the part of the senate	On the part of the house

HB 3218, A bill to be entitled An Act relating to the filing of sworn complaints with the Texas Ethics Commission.

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

SECTION 1. Section 571.122, Government Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a) An individual may file with the commission a sworn complaint~~[, on a form prescribed by the commission,]~~ alleging that a person subject to a law administered and enforced by the commission has violated a rule adopted by or a law administered and enforced by the commission. A sworn complaint must be filed on a form prescribed by the commission. The commission shall make the complaint form available on the Internet. The form prescribed by the commission must require the complainant to provide the following information for both the complainant and the respondent:

- (1) the person's name;
- (2) the person's telephone number;
- (3) the person's electronic mail address, if known; and
- (4) the physical address of the person's home or business.

(b-1) An individual must be a resident of this state to be eligible to file a sworn complaint with the commission. A copy of one of the following documents must be attached to the complaint:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code; or

(2) a utility bill, bank statement, government check, paycheck, or other government document that:

(A) shows the name and address of the complainant; and

(B) is dated not more than 30 days before the date on which the complaint is filed.

SECTION 2. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1221 to read as follows:

Sec. 571.1221. DISMISSAL OF COMPLAINT FILED AT DIRECTION OR URGING OF NONRESIDENT. At any stage of a proceeding under this subchapter, the commission shall dismiss the complaint if the commission determines that the complaint was filed at the direction or urging of a person who is not a resident of this state.

SECTION 3. Section 571.123(c), Government Code, is amended to read as follows:

(c) If the commission determines that the complaint does not comply with the form requirements, the commission shall send the complaint to the complainant with the written notice, a statement explaining how the complaint fails to comply, and a copy of the rules for filing sworn complaints. The commission shall send a copy of the rejected complaint to the respondent with the written notice and the statement explaining how the complaint fails to comply. The complainant may resubmit the complaint not later than the 21st day after the date the notice under Subsection (b) is mailed. If the commission determines that the complaint is not resubmitted within the 21-day period, the commission shall:

(1) dismiss the complaint; and

(2) not later than the fifth business day after the date of the dismissal, send written notice to the complainant and the respondent of the dismissal and the grounds for dismissal.

SECTION 4. Section 571.122, Government Code, as amended by this Act, and Section 571.1221, Government Code, as added by this Act, apply only to a sworn complaint filed with the Texas Ethics Commission on or after the effective date of this Act. A sworn complaint filed with the Texas Ethics Commission before the effective date of this Act is governed by the law in effect on the date the complaint is filed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Naishtat moved to adopt the conference committee report on **HB 3218**.

The motion to adopt the conference committee report on **HB 3218** prevailed by (Record 1575): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory

Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Callegari; Flores; Miller, S.; Pierson; Rose.

SB 1068 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the conference committee report on **SB 1068**.

Representative Gallego moved to adopt the conference committee report on **SB 1068**.

The motion to adopt the conference committee report on **SB 1068** prevailed by (Record 1576): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Callegari; Davis, Y.; Moody; Peña; Solomons.

STATEMENT OF VOTE

When Record No. 1576 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

HR 2969 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2969**, suspending the limitations on the conferees for **HB 3526**.

HB 2649 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative W. Smith submitted the following conference committee report on **HB 2649**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2649** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell
Watson
Wentworth
Lucio

W. Smith
Harless
Callegari
Anderson
Homer

On the part of the senate

On the part of the house

HB 2649, A bill to be entitled An Act relating to the regulation and practice of engineering.

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

SECTION 1. Section 1001.056, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The exemption provided by this section does not apply to a person or entity that is:

(1) providing engineering design or inspection services necessary to comply with windstorm certification standards for a residential dwelling under Subchapter F, Chapter 2210, Insurance Code; or

(2) providing engineering design relating to constructing, enlarging, altering, or repairing, or drawing plans or specifications for, a residential dwelling slab located on expansive soil that meets the expansive soil classification provisions of the International Residential Code as applied in the jurisdiction in which the residential dwelling is located, unless the construction, enlargement,

alteration, repair, or drawing of plans or specifications meets the International Residential Code requirements as applied in the jurisdiction in which the residential dwelling is located.

SECTION 2. Subchapter B, Chapter 1001, Occupations Code, is amended by adding Section 1001.067 to read as follows:

Sec. 1001.067. CERTAIN FIRE DEPARTMENT EMPLOYEES. This chapter does not prohibit the professional use of the term "fire engineer" by a member of a fire department in a municipality with a population of one million or more that has adopted Chapter 143, Local Government Code, and to which Subchapter G of that chapter does not generally apply, who:

- (1) holds the position of fire apparatus operator; and
- (2) is not otherwise engaged in the practice of engineering.

SECTION 3. Section 1001.401, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) A license holder shall not be required to provide or hold any additional certification, other than a license issued under this chapter, to seal an engineering plan, specification, plat, or report.

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, 2009.

Representative W. Smith moved to adopt the conference committee report on **HB 2649**.

The motion to adopt the conference committee report on **HB 2649** prevailed by (Record 1577): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Anderson; Woolley.

HB 3632 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Geren submitted the following conference committee report on **HB 3632**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3632** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Averitt	Hamilton
Eltife	Homer
Hegar	Ritter
Uresti	Geren
On the part of the senate	On the part of the house

HB 3632, A bill to be entitled An Act relating to the authority of the state to acquire, sell, or exchange certain land.

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

SECTION 1. Section 31.065, Natural Resources Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) In the absence of any law to the contrary, the commissioner may, if the commissioner [he] determines it to be in the best interest of the state, accept grants, gifts, devises, or bequests, either absolutely or in trust, of money or real or personal property on behalf of the state. Real property so acquired by the state becomes public free school land unless the person making the grant, gift, devise, or bequest provides that the real property is to be possessed, administered, or used by a particular state agency, board, commission, department, or other particular state entity or provides that it is to be held in some other manner by the state.

(c) If the commissioner determines that the real property acquired by the state by grant, gift, devise, or bequest is not suitable for the purpose for which the grant, gift, devise, or bequest was originally made, the commissioner together with the agency, board, commission, department, or other state entity, if any, designated to possess, administer, or use the real property may exchange the real property for real property that is suitable for such purpose.

(d) If real property acquired by grant, gift, devise, or bequest is not held as part of the permanent school fund or possessed, administered, or used by a particular state agency, board, commission, department, or other particular state

entity, the commissioner may manage that real property or sell or exchange the real property under terms and conditions the commissioner determines to be in the best interest of the state. Real property sold under this subsection must be sold in accordance with Section 31.158. Proceeds of the sale that are not required for the management of real property under this subsection shall be deposited in the Texas farm and ranch lands conservation fund established under Chapter 183. Real property acquired under this subsection may be dedicated by the commissioner to any state agency, board, commission, or department, a political subdivision or other governmental entity of this state, or the federal government, for the benefit and use of the public in exchange for nonmonetary consideration, if the commissioner determines that the exchange is in the best interest of the state.

(e) The commissioner may adopt rules necessary to implement this section.

SECTION 2. Section 31.066, Natural Resources Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) If it is necessary for the United States government to acquire real property in this state to conduct remedial action at a site listed on the National Priorities List under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), the commissioner ~~[land office]~~ may accept transfer on behalf of the state of the title and interest in the real property from the United States government. The commissioner ~~[land office]~~ may accept a transfer following completion of remedial action at a site only on the condition that the state will not incur any liability under that federal law solely by acquiring the title and interest in the real estate.

(c) Any title and interest in real property acquired by the commissioner ~~[land office]~~ under this section shall be held in the name of the state. Title or interest acquired under this section does not become a part of the permanent school fund or any other fund created by the Texas Constitution.

(d) The commissioner may sell any title or interest acquired by the state under this section in accordance with Section 31.158. Proceeds of the sale shall be deposited in the Texas farm and ranch lands conservation fund established under Chapter 183.

SECTION 3. Section 31.167, Natural Resources Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) The special board of review must file a copy of the development plan in the deed records of the county in which the real property is located. Revisions to the development plan that are requested after the later of the 10th anniversary of the date on which the development plan was promulgated by the special board of review or the date on which the state no longer holds a financial or property interest in the real property subject to the plan are governed by local development policies and procedures.

(d) After issuance of an order establishing a development plan for real property that is not part of the permanent school fund or in which the permanent school fund does not have a financial interest, the composition of any future special board of review called to consider revision of that order must consist of:

(1) the presiding officer of the governing board of the agency or institution possessing the real property or the presiding officer's designated representative;

(2) two members who are employed by the agency or institution possessing the real property, appointed by the presiding officer of the governing board of the agency or institution or the presiding officer's designated representative;

(3) the county judge of the county in which the real property is located;
and

(4) if the real property is located within the corporate boundaries or extraterritorial jurisdiction of a municipality, the mayor of the municipality.

(e) The member described by Subsection (d)(1) serves as the presiding officer of the special board of review.

SECTION 4. Section 183.058(a), Natural Resources Code, is amended to read as follows:

(a) The Texas farm and ranch lands conservation fund is an account in the general revenue fund that may be appropriated only to the land office to be used as provided by Subsection (b). The fund may not be used for grants to purchase or acquire any right or interest in property by eminent domain. The fund consists of:

(1) money appropriated by the legislature to the fund;

(2) public or private grants, gifts, donations, or contributions; ~~and~~

(3) funds from any other source, including proceeds from the sale of bonds, state or federal mitigation funds, or funds from any local, state, or federal program;

(4) proceeds of the sale of real property not required for the management of real property under Section 31.065(d); and

(5) proceeds of the sale of real property under Section 31.066(d).

SECTION 5. Sections 191.021(b) and (d), Natural Resources Code, are amended to read as follows:

(b) If an institution of higher education notifies the committee in a timely manner (as established by the committee's rules) that it protests the proposed designation of a building or land under its control as a landmark, the matter becomes a contested case under the provisions of Sections 12 through 20 of the Administrative Procedure and Texas Register Act. In the conduct of proceedings under the Administrative Procedure and Texas Register Act, both the hearing officer in his or her recommendations to the committee and the committee in its determinations of findings of fact and conclusions of law shall consider, in addition to such other objective criteria as the committee may establish pursuant to Section 191.091 of this chapter:

(1) that the primary mission of institutions of higher education is the provision of educational services to the state's citizens;

(2) that the authority for expenditure of the portion of the state's resources allocated to institutions of higher education for construction and repair purposes is entrusted to the governing boards of institutions of higher education for the purpose of the furtherance of the primary mission of the respective institutions of higher education;

(3) whether the benefit to the state from landmark designation outweighs the potential inflexibility of use that may be a consequence of the designation; and

(4) whether the cost of remodeling and/or restoration that might be required under the permit procedures of the committee if the building were designated as a landmark may be so substantially greater than remodeling under procedures established by law for the review of remodeling projects for higher education buildings not so designated as to impair the proper use of funds designated by the state for educational purposes at the institution.

(d) Weighing the criteria set forth in Subsections (b) and (c) of this section against the criteria it adopts pursuant to Section 191.092 of this chapter and such criteria as it may adopt with regard to permit requirements, the committee shall designate a building or land under the control of an institution of higher education as a landmark or include a requirement in a permit only if the record before the committee establishes by clear and convincing evidence that such designation or inclusion would be in the public interest.

SECTION 6. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Geren moved to adopt the conference committee report on **HB 3632**.

The motion to adopt the conference committee report on **HB 3632** prevailed by (Record 1578): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez;

Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Burnam; Coleman; Dunnam; Hernandez; Martinez Fischer; Veasey.

HB 3768 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Paxton submitted the following conference committee report on **HB 3768**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3768** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
Averitt
Eltife
Watson
Whitmire
On the part of the senate

Paxton
Hughes
Kleinschmidt
P. King
Gonzalez Toureilles
On the part of the house

HB 3768, A bill to be entitled An Act relating to continuation of title insurance coverage of transferred property.

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

SECTION 1. Section 2703.101, Insurance Code, is amended by adding Subsection (g) to read as follows:

(g) For an owner's title insurance policy on residential real property that is issued to an individual, the commissioner shall adopt terms that provide for continuation of coverage subject to rights and defenses against the original named insured for:

(1) a person who inherits the original named insured's title on the original named insured's death;

(2) the original named insured's spouse who receives title in a dissolution of marriage with the original named insured;

(3) the trustee or successor of a trust established by the original named insured to whom the original named insured transfers title after the date of policy;
or

(4) the beneficiaries of a trust described by Subdivision (3) on the death of the original named insured.

SECTION 2. This Act applies only to an insurance policy or contract that is delivered, issued for delivery, or renewed on or after January 1, 2010. An insurance policy or contract delivered, issued for delivery, or renewed before January 1, 2010, 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 3. This Act takes effect September 1, 2009.

Representative Paxton moved to adopt the conference committee report on **HB 3768**.

The motion to adopt the conference committee report on **HB 3768** prevailed by (Record 1579): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Darby; Edwards; Geren; Harper-Brown; Morrison.

STATEMENT OF VOTE

When Record No. 1579 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

SB 1757 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative D. Howard submitted the conference committee report on **SB 1757**.

Representative D. Howard moved to adopt the conference committee report on **SB 1757**.

The motion to adopt the conference committee report on **SB 1757** prevailed by (Record 1580): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Harper-Brown; Shelton; Solomons.

HB 537 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Berman submitted the following conference committee report on **HB 537**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 537** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Eltife

Watson

Deuell

Shapleigh

On the part of the senate

Berman

Naishtat

Bolton

Darby

Weber

On the part of the house

HB 537, A bill to be entitled An Act relating to the transportation of children in motor vehicles; creating an offense.

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

SECTION 1. Sections 545.412(e) and (f), Transportation Code, are amended to read as follows:

(e) This section does not apply to a person:

(1) operating a vehicle transporting passengers for hire, excluding ~~[including]~~ third-party transport service providers when transporting clients pursuant to a contract to provide nonemergency Medicaid transportation; or

(2) transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.

(f) In this section:

(1) "Child passenger safety seat system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(2) "Passenger vehicle" means a passenger car, light truck, sport utility vehicle, passenger van designed to transport 15 or fewer passengers, including the driver, truck, or truck tractor.

(3) "Safety belt" means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(4) "Secured," in connection with use of a safety belt, means using the lap belt and any shoulder straps according to the instructions of:

(A) the manufacturer of the vehicle, if the safety belt is original equipment; or

(B) the manufacturer of the safety belt, if the safety belt has been added to the vehicle.

SECTION 2. Section 545.413, Transportation Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a) A person commits an offense if:

(1) the person:

(A) is at least 15 years of age;

(B) is riding in ~~[the front seat of]~~ a passenger vehicle while the vehicle is being operated;

(C) is occupying a seat that is equipped with a safety belt; and

(D) is not secured by a safety belt; or

(2) as the operator of a school bus equipped with a safety belt for the operator's seat, the person is not secured by the safety belt.

(b-1) A person commits an offense if the person allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under Section 545.412(a) to ride in a passenger van designed to transport 15 or fewer passengers, including the driver, without securing the child individually by a safety belt, if the child is occupying a seat that is equipped with a safety belt.

SECTION 3. Section 545.416, Transportation Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Except as provided by Subsection (e), an operator may not carry another person on a motorcycle unless the other person is at least five years of age. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$200. It is a defense to prosecution under this subsection that the operator was operating the motorcycle in an emergency or for a law enforcement purpose.

(e) Subsection (d) does not prohibit an operator from carrying on a motorcycle a person younger than five years of age who is seated in a sidecar attached to the motorcycle.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 5. This Act takes effect September 1, 2009.

Representative Berman moved to adopt the conference committee report on **HB 537**.

The motion to adopt the conference committee report on **HB 537** prevailed by (Record 1581): 105 Yeas, 34 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Farabee; Farias; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Harless; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Jackson; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, W.; Solomons; Strama; Thibaut; Thompson; Turner, C.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Aycocock; Brown, B.; Button; Callegari; Christian; Cook; Corte; Crabb; Craddick; Elkins; Fletcher; Flynn; Gattis; Geren; Hardcastle; Harper-Brown; Hilderbran; Howard, C.; Jones; Kolkhorst; Lewis; Madden; Miller, D.; Miller, S.; Phillips; Riddle; Sheffield; Smith, T.; Smithee; Swinford; Truitt; Weber; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Edwards; Farrar; Isett; King, S.; Laubenberg; Turner, S.

STATEMENT OF VOTE

When Record No. 1581 was taken, I was in the house but away from my desk. I would have voted no.

Laubenberg

SB 2513 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Dunnam submitted the conference committee report on **SB 2513**.

Representative Dunnam moved to adopt the conference committee report on **SB 2513**.

The motion to adopt the conference committee report on **SB 2513** prevailed by (Record 1582): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — King, S.; Sheffield.

HB 2153 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Edwards submitted the following conference committee report on **HB 2153**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
 President of the Senate

The Honorable Joe Straus
 Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2153** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro	Edwards
Ellis	Kent
Duncan	Riddle
Davis	Fletcher
Hinojosa	Vaught
On the part of the senate	On the part of the house

HB 2153, A bill to be entitled An Act relating to certain registration requirements imposed on sex offenders.

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

SECTION 1. Article 13.31, Code of Criminal Procedure, is amended to read as follows:

Art. 13.31. FAILURE TO COMPLY WITH SEX OFFENDER REGISTRATION STATUTE. An offense under Chapter 62 may be prosecuted in:

- (1) any county in which an element of the offense occurs;
- (2) the county in which the person subject to Chapter 62 last registered, verified registration, or otherwise complied with a requirement of Chapter 62;
- (3) the county in which the person required to register under Chapter 62 has indicated that the person intends to reside, regardless of whether the person establishes or attempts to establish residency in that county; ~~or~~
- (4) any county in which the person required to register under Chapter 62 is placed under custodial arrest for an offense subsequent to the person's most recent reportable conviction or adjudication under Chapter 62; or
- (5) the county in which the person required to register under Chapter 62 resides or is found by a peace officer, regardless of how long the person has been in the county or intends to stay in the county.

SECTION 2. Article 62.051, Code of Criminal Procedure, is amended by amending Subsections (c) and (f) and adding Subsections (j) and (k) to read as follows:

- (c) The registration form shall require:
 - (1) the person's full name, including each alias, the person's date of birth, sex, race, height, weight, eye color, hair color, social security number, driver's license number, and shoe size, and the [home] address at which the person resides or intends to reside or, if the person does not reside or intend to reside at a physical address, a detailed description of each geographical location at which the person resides or intends to reside;

(2) a recent color photograph or, if possible, an electronic digital image of the person and a complete set of the person's fingerprints;

(3) the type of offense the person was convicted of, the age of the victim, the date of conviction, and the punishment received;

(4) an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision;

(5) an indication of each license, as defined by Article 62.005(g), that is held or sought by the person;

(6) an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution; and

(7) any other information required by the department.

(f) Not later than the seventh day after the date on which the person is released, a [A] person for whom registration is completed under this chapter shall report to the applicable local law enforcement authority to verify the information in the registration form received by the authority under this chapter. The authority shall require the person to produce proof of the person's identity and residence before the authority gives the registration form to the person for verification. If the information in the registration form is complete and accurate, the person shall verify registration by signing the form. If the information is not complete or not accurate, the person shall make any necessary additions or corrections before signing the form.

(j) If a person subject to registration under this chapter is released from a penal institution without being released to parole or placed on any other form of supervision and the person does not move to the address indicated on the registration form as the person's intended residence or does not indicate an address on the registration form, the person shall, not later than the seventh day after the date on which the person is released:

(1) report in person to the local law enforcement authority for the municipality or county, as applicable, in which the person is residing and provide that authority with the address at which the person is residing or, if the person's residence does not have a physical address, a detailed description of the geographical location of the person's residence; and

(2) until the person indicates the person's current address as the person's intended residence on the registration form or otherwise complies with the requirements of Article 62.055, as appropriate, continue to report, in the manner required by Subdivision (1), to that authority not less than once in each succeeding 30-day period and provide that authority with the address at which the person is residing or, if applicable, a detailed description of the geographical location of the person's residence.

(k) A person required to register under this chapter may not refuse or otherwise fail to provide any information required for the accurate completion of the registration form.

SECTION 3. Article 62.053(a), Code of Criminal Procedure, is amended to read as follows:

(a) Before a person who will be subject to registration under this chapter is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Youth Commission shall determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 and assign to the person a numeric risk level of one, two, or three. Before releasing the person, an official of the penal institution shall:

(1) inform the person that:

(A) not later than the later of the seventh day after the date on which the person is released or after the date on which the person moves from a previous residence to a new residence in this state or not later than ~~the later of~~ the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, the person must register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to reside;

(B) not later than the seventh day after the date on which the person is released or the date on which the person moves from a previous residence to a new residence in this state, the person must, if the person has not moved to an intended residence, report to the applicable entity or entities as required by Article 62.051(h) or (j) or 62.055(e) ~~[juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person];~~

(C) not later than the seventh day before the date on which the person moves to a new residence in this state or another state, the person must report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;

(D) not later than the 10th day after the date on which the person arrives in another state in which the person intends to reside, the person must register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information, if the other state has a registration requirement for sex offenders;

(E) not later than the 30th day after the date on which the person is released, the person must apply to the department in person for the issuance of an original or renewal driver's license or personal identification certificate and a failure to apply to the department as required by this paragraph results in the automatic revocation of any driver's license or personal identification certificate issued by the department to the person; and

(F) the person must notify appropriate entities of any change in status as described by Article 62.057;

(2) require the person to sign a written statement that the person was informed of the person's duties as described by Subdivision (1) or Subsection (g) or, if the person refuses to sign the statement, certify that the person was so informed;

(3) obtain the address or, if applicable, a detailed description of each geographical location where the person expects to reside on the person's release and other registration information, including a photograph and complete set of fingerprints; and

(4) complete the registration form for the person.

SECTION 4. The heading to Article 62.055, Code of Criminal Procedure, is amended to read as follows:

Art. 62.055. CHANGE OF ADDRESS; LACK OF ADDRESS.

SECTION 5. Article 62.055, Code of Criminal Procedure, is amended by adding Subsection (i) to read as follows:

(i) If a person required to register under this chapter resides for more than seven days at a location or locations to which a physical address has not been assigned by a governmental entity, the person, not less than once in each 30-day period, shall confirm the person's location or locations by:

(1) reporting to the local law enforcement authority in the municipality where the person resides or, if the person does not reside in a municipality, the local law enforcement authority in the county in which the person resides; and

(2) providing a detailed description of the applicable location or locations.

SECTION 6. Article 13.31, Code of Criminal Procedure, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. The changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply to any person who, on or after the effective date of this Act, is required to register under that chapter, regardless of whether the offense or conduct for which the person is required to register occurs before, on, or after the effective date of this Act.

SECTION 8. This Act takes effect September 1, 2009.

Representative Edwards moved to adopt the conference committee report on **HB 2153**.

The motion to adopt the conference committee report on **HB 2153** prevailed by (Record 1583): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter;

Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Chisum; Dukes; Leibowitz; Smithee.

STATEMENT OF VOTE

When Record No. 1583 was taken, I was in the house but away from my desk. I would have voted yes.

Chisum

HB 2240 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Lewis submitted the following conference committee report on **HB 2240**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2240** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Nelson	Lewis
Patrick	Moody
Seliger	Guillen
Shapiro	D. Howard
Whitmire	Vaught
On the part of the senate	On the part of the house

HB 2240, A bill to be entitled An Act relating to creating the offense of continuous violence against the family.

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

SECTION 1. Chapter 25, Penal Code, is amended by adding Section 25.11 to read as follows:

Sec. 25.11. CONTINUOUS VIOLENCE AGAINST THE FAMILY. (a) A person commits an offense if, during a period that is 12 months or less in duration, the person two or more times engages in conduct that constitutes an

offense under Section 22.01(a)(1) against another person or persons whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code.

(b) If the jury is the trier of fact, members of the jury are not required to agree unanimously on the specific conduct in which the defendant engaged that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a) or the exact date when that conduct occurred. The jury must agree unanimously that the defendant, during a period that is 12 months or less in duration, two or more times engaged in conduct that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a).

(c) A defendant may not be convicted in the same criminal action of another offense the victim of which is an alleged victim of the offense under Subsection (a) and an element of which is any conduct that is alleged as an element of the offense under Subsection (a) unless the other offense:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

(d) A defendant may not be charged with more than one count under Subsection (a) if all of the specific conduct that is alleged to have been engaged in is alleged to have been committed against a single victim or members of the same household, as defined by Section 71.005, Family Code.

(e) An offense under this section is a felony of the third degree.

SECTION 2. Section 22.01(b), Penal Code, is amended to read as follows:

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, ~~21.11~~, or 25.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal Code, or Section 51.02(13) or (14), Family Code, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer; or

(5) a person the actor knows is emergency services personnel while the person is providing emergency services.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

Representative Lewis moved to adopt the conference committee report on **HB 2240**.

The motion to adopt the conference committee report on **HB 2240** prevailed by (Record 1584): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Chavez; Hodge; Kolkhorst.

HB 3637 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hughes submitted the following conference committee report on **HB 3637**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3637** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth

Hinojosa

Watson

Williams

On the part of the senate

Hughes

Eiland

Smithee

S. Turner

On the part of the house

HB 3637, A bill to be entitled An Act relating to filing fees in civil actions and proceedings and the use of those fees, to costs on conviction in certain courts, to money paid into the registry of a court in certain counties, and to the appointment of counsel in certain suits.

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

SECTION 1. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0169 to read as follows:

Art. 102.0169. COURT COSTS; COUNTY AND DISTRICT COURT TECHNOLOGY FUND. (a) A defendant convicted of a criminal offense in a county court, statutory county court, or district court shall pay a \$4 county and district court technology fee as a cost of court.

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

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(c) The clerks of the courts described by Subsection (a) shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer, as appropriate, for deposit in a fund to be known as the county and district court technology fund.

(d) A fund designated by this article may be used only to finance:

(1) the cost of continuing education and training for county court, statutory county court, or district court judges and clerks regarding technological enhancements for those courts; and

(2) the purchase and maintenance of technological enhancements for a county court, statutory county court, or district court, including:

(A) computer systems;

(B) computer networks;

(C) computer hardware;

(D) computer software;

(E) imaging systems;

(F) electronic kiosks; and

(G) docket management systems.

(e) The county and district court technology fund shall be administered by or under the direction of the commissioners court of the county.

SECTION 2. Section 117.111, Local Government Code, is amended to read as follows:

Sec. 117.111. SUBCHAPTER APPLICABLE TO COUNTY WITH POPULATION OF 1.3 ~~[2.4]~~ MILLION OR MORE. This subchapter applies only to a county with a population of 1.3 ~~[2.4]~~ million or more.

SECTION 3. The heading to Subchapter E, Chapter 117, Local Government Code, is amended to read as follows:

SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO FUNDS PAID INTO COURT REGISTRY IN COUNTY WITH POPULATION OF MORE THAN 1.3 ~~[2.4]~~ MILLION

SECTION 4. Section 133.152(a), Local Government Code, is amended to read as follows:

(a) In addition to other fees collected under Section 133.151(a) or otherwise authorized or required by law, the clerk of a district court shall collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:

(1) \$5 in family law cases and proceedings as defined by Section 25.0002, Government Code; and

(2) \$10 in any case other than a case described by Subdivision (1).

SECTION 5. Section 133.153(a), Local Government Code, is amended to read as follows:

(a) In addition to other fees authorized or required by law, the clerk of a court other than a district court, the courts of appeals, or the supreme court shall collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:

(1) \$10 ~~[\$5]~~ for statutory and constitutional county courts; and

(2) \$6 ~~[\$2]~~ for justice of the peace courts.

SECTION 6. Subchapter A, Chapter 25, Government Code, is amended by adding Section 25.0020 to read as follows:

Sec. 25.0020. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS.

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

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

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

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

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

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

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

SECTION 7. Subchapter A, Chapter 26, Government Code, is amended by adding Section 26.010 to read as follows:

Sec. 26.010. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS.

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

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

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

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

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

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

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

SECTION 8. Subchapter H, Chapter 51, Government Code, is amended by adding Section 51.708 to read as follows:

Sec. 51.708. ADDITIONAL FILING FEE FOR CIVIL CASES IN CERTAIN COURTS. (a) In addition to all other fees authorized or required by other law, the clerk of a county court, statutory county court, or district court shall collect a filing fee of not more than \$10 in each civil case filed in the court to be used for court record preservation for the courts in the county.

(b) Court fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(c) The clerk at least monthly shall send the fees collected under this section to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer. The treasurer or other official shall

deposit the fees in a court record preservation account in the county treasury. The money in the account may be used only to digitize court records and preserve the records from natural disasters.

(d) The court record preservation account shall be administered by or under the direction of the commissioners court of the county.

SECTION 9. Subchapter D, Chapter 101, Government Code, is amended by adding Section 101.06117 to read as follows:

Sec. 101.06117. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. The clerk of a district court shall collect an additional filing fee not to exceed \$10 under Section 51.708, Government Code, in certain civil cases to fund the preservation of court records.

SECTION 10. Subchapter E, Chapter 101, Government Code, is amended by adding Section 101.08115 to read as follows:

Sec. 101.08115. ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE. The clerk of a statutory county court shall collect an additional filing fee not to exceed \$10 under Section 51.708, Government Code, in certain civil cases to fund the preservation of court records.

SECTION 11. (a) Section 101.0814, Government Code, is amended to conform to the amendments made to Section 101.081, Government Code, by Chapter 399 (**SB 819**), Acts of the 80th Legislature, Regular Session, 2007, and to conform to the amendments made to Section 101.083, Government Code, by Chapter 1301 (**SB 600**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 101.0814. STATUTORY COUNTY COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a statutory county court shall collect fees and costs under the Local Government Code as follows:

(1) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(2) civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . \$15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . \$40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . \$30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . \$5;

(3) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisalment (~~Secs. [after the 120th day after the date of the initial filing of the action (Sec.] 118.052 and 118.056(d),~~ Local Government Code) . . . \$25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisalment or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . \$25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;

(4) other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . \$5;

(5) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$10 [~~\$5~~];

(6) on the filing of a civil suit, an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . \$42 [~~\$37~~];

(7) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(8) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(9) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20; and

(10) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35.

(b) Section 101.083, Government Code, is repealed.

SECTION 12. Section 101.1013, Government Code, is amended to conform to the amendments made to Section 101.101, Government Code, by Chapter 399 (**SB 819**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 101.1013. STATUTORY PROBATE COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a statutory probate court shall collect fees and costs under the Local Government Code as follows:

(1) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$10 ~~[\$5]~~;

(2) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(3) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisal ~~(Secs. [after the 120th day after the date of the initial filing of the action (Sec.] 118.052 and 118.056(d),~~ Local Government Code) . . . \$25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisal or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . \$25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;

(4) other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5; and

(5) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35.

SECTION 13. Subchapter G, Chapter 101, Government Code, is amended by adding Section 101.12124 to read as follows:

Sec. 101.12124. ADDITIONAL COUNTY COURT FEES: GOVERNMENT CODE. The clerk of a county court shall collect an additional filing fee not to exceed \$10 under Section 51.708, Government Code, in certain civil cases to fund the preservation of court records.

SECTION 14. (a) Section 101.1214, Government Code, is amended to conform to the amendments made to Section 101.121, Government Code, by Chapter 399 (**SB 819**), Acts of the 80th Legislature, Regular Session, 2007, and to conform to the amendments made to Section 101.123, Government Code, by Chapter 1301 (**SB 600**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 101.1214. COUNTY COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a county court shall collect the following fees and costs under the Local Government Code:

(1) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(2) civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . \$15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . \$40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . \$30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . \$5;

(3) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisalment (Secs. ~~118.052 and 118.056(d),~~ after the 120th day after the date of the initial filing of the action (Sec.] 118.052 and 118.056(d), Local Government Code) . . . \$25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisal or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . \$25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;

(4) other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . \$5;

(5) deposit on filing petition requesting permission to create a municipal civic center authority (Sec. 281.013, Local Government Code) . . . \$200;

(6) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(7) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(8) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(9) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(10) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$10 [~~\$5~~]; and

(11) on the filing of a civil suit an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . \$42 [~~\$37~~].

(b) Section 101.123, Government Code, is repealed.

SECTION 15. Section 101.141(b), Government Code, as amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 101.141(a), Government Code, by Chapter 1046 (**HB 2094**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

(b) A clerk of a justice court shall collect fees and costs under other laws as follows:

(1) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed \$100;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than \$15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$6 [~~\$2~~];

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$1.50; and

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations [~~685.008, Transportation~~] Code) . . . \$20.

SECTION 16. (a) Section 102.041, Government Code, as amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, to Section 102.041, Government Code, and is further amended to read as follows:

Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a district court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a county and district court technology fee (Art. 102.0169, Code of Criminal Procedure) . . . \$4;

(5) a security fee on a felony offense (Art. 102.017, Code of Criminal Procedure) . . . \$5;

(6) [~~5~~] a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3; and

(7) [~~6~~] a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~].

(b) Section 102.041, Government Code, as amended by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.041, Government Code, as amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 17. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a county and district court technology fee (Art. 102.0169, Code of Criminal Procedure) . . . \$4;

(5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(6) [~~5~~] a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; and

(7) [~~6~~] a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5.

(b) Section 102.061, Government Code, as amended by Chapter 1053, Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921, Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 18. (a) Section 102.081, Government Code, as amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a county and district court technology fee (Art. 102.0169, Code of Criminal Procedure) . . . \$4;
- (5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (6) ~~(5)~~ a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; and
- (7) ~~(6)~~ a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 19. The change in law made by this Act in adding Sections 25.0020 and 26.010, Government Code, applies only to an eviction suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 20. The change in law made by this Act in adding Article 102.0169, Code of Criminal Procedure, applies only to a cost on conviction for an offense committed on or after the effective date of this Act. A cost on conviction for an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 21. The changes in law made by this Act apply only to a fee that becomes payable on or after the effective date of this Act. A fee that becomes payable before the effective date of this Act is governed by the law in effect when the fee became payable, and the former law is continued in effect for that purpose.

SECTION 22. This Act takes effect September 1, 2009.

Representative Hughes moved to adopt the conference committee report on **HB 3637**.

The motion to adopt the conference committee report on **HB 3637** prevailed by (Record 1585): 117 Yeas, 26 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Corte; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Turner, C.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Zerwas.

Nays — Anderson; Branch; Brown, B.; Brown, F.; Button; Cook; Crabb; Creighton; Elkins; Gattis; Hilderbran; Kolkhorst; Laubenberg; Madden; McCall; McReynolds; Miller, D.; Miller, S.; Parker; Paxton; Peña; Phillips; Sheffield; Truitt; Turner, S.; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Castro; Isett.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1585. I intended to vote no.

Flynn

SB 93 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Castro submitted the conference committee report on **SB 93**.

Representative Castro moved to adopt the conference committee report on **SB 93**.

The motion to adopt the conference committee report on **SB 93** prevailed by (Record 1586): 141 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Giddings;

Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Geren; Laubenberg.

HB 715 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative P. King submitted the following conference committee report on **HB 715**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 715** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Estes
Carona
Shapleigh

P. King
Callegari
Gonzales
Harper-Brown

On the part of the senate

On the part of the house

HB 715, A bill to be entitled An Act relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.

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

SECTION 1. Subchapter F, Chapter 548, Transportation Code, is amended by adding Section 548.3075 to read as follows:

Sec. 548.3075. LIMITED EMISSIONS INSPECTIONS. (a) In this section, "limited emissions inspection" means an emissions inspection of a motor vehicle conducted only by using the onboard diagnostic system of the vehicle.

(b) A department rule that allows a qualified inspection station to perform a limited emissions inspection of a motor vehicle may not restrict the station to fewer than 150 inspections per month.

SECTION 2. This Act takes effect December 31, 2010.

Representative P. King moved to adopt the conference committee report on **HB 715**.

The motion to adopt the conference committee report on **HB 715** prevailed by (Record 1587): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — McReynolds.

HB 1914 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McReynolds submitted the following conference committee report on **HB 1914**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1914** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Nichols

McReynolds

Whitmire
Shapleigh
Patrick

Christian
England
Hodge
Madden

On the part of the senate

On the part of the house

HB 1914, A bill to be entitled An Act relating to abolishing the Private Sector Prison Industries Oversight Authority and to the certification and operation of private sector prison industries programs.

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

SECTION 1. Chapter 492, Government Code, is amended by adding Section 492.0011 to read as follows:

Sec. 492.0011. PRIVATE SECTOR PRISON INDUSTRIES PROGRAM MANAGEMENT. (a) The board shall approve, certify, and supervise private sector prison industries programs operated by the department, the Texas Youth Commission, and county correctional facilities in accordance with Subchapter C, Chapter 497.

(b) This section does not authorize the board to direct the general operations of or to govern the Texas Youth Commission or county correctional facilities in any manner not specifically described by Subsection (a).

SECTION 2. Sections 492.003(a) and (c), Government Code, are amended to read as follows:

(a) Each member of the board must be representative of the general public. A person is not eligible for appointment as a member if the person or the person's spouse:

(1) is a person, other than a judge participating in the management of a community supervision and corrections department, who is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

(2) owns, or controls directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department or receiving funds from the department, including an entity or organization with which the department contracts under Subchapter C, Chapter 497; [or]

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses; or

(4) owns, controls directly or indirectly, or is employed by a business entity or other organization with which the department contracts concerning a private sector prison industries program approved and certified by the board under Subchapter C, Chapter 497.

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

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal justice or private sector prison industries; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice or private sector prison industries.

SECTION 3. Section 492.0031, Government Code, is amended by adding Subsections (b-1) and (d) to read as follows:

(b-1) In addition to the information described by Subsection (b), the training program must provide the person with information regarding:

(1) the legislative history of Subchapter C, Chapter 497;

(2) the history and operation of programs under that subchapter; and

(3) any applicable federal law concerning the operation or certification of a program under that subchapter.

(d) A person who is a member of the board on September 1, 2009, shall complete the training described by Subsection (b-1) not later than January 1, 2010. This subsection expires September 1, 2011.

SECTION 4. Section 497.004(a), Government Code, is amended to read as follows:

(a) The board may develop by rule and the department may administer an incentive pay scale for work program participants consistent with rules adopted by the board [~~Private Sector Prison Industries Oversight Authority~~] under Subchapter C. Prison industries may be financed through contributions donated for this purpose by private businesses contracting with the department. The department shall apportion pay earned by a work program participant in the same manner as is required by rules adopted by the board [~~Private Sector Prison Industries Oversight Authority~~] under Section 497.0581.

SECTION 5. Section 497.006(c), Government Code, is amended to read as follows:

(c) A contract for the provision of services under this section must:

(1) be certified by the board [~~Private Sector Prison Industries Oversight Authority~~] as complying with all requirements of the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761, other than a requirement relating to the payment of prevailing wages, so long as the contract requires payment of not less than the federal minimum wage;

(2) be certified by the board [~~authority~~], under rules adopted under Section 497.059, that the contract would not cause the loss of existing jobs of a specific type provided by any employer [~~the contracting party~~] in this state; and

(3) be approved by the board.

SECTION 6. The heading to Subchapter C, Chapter 497, Government Code, is amended to read as follows:

SUBCHAPTER C. PRIVATE SECTOR PRISON INDUSTRIES PROGRAMS
[~~OVERSIGHT AUTHORITY~~]

SECTION 7. Section 497.051, Government Code, is amended to read as follows:

Sec. 497.051. PURPOSE; ~~DEFINITIONS~~ [DEFINITION]. (a) The board shall ~~[Private Sector Prison Industries Oversight Authority is created to]~~ approve, certify, and supervise ~~[oversee]~~ the operation of private sector prison industries programs in the department, the Texas Youth Commission, and in county correctional facilities in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761. The board may use board and department employees to ~~[executive director shall]~~ provide the ~~[authority with]~~ clerical and technical support ~~[as]~~ necessary for the board ~~[authority]~~ to perform the board's duties under ~~[imposed on the authority by]~~ this subchapter and shall ensure that the department implements the policies adopted by the board ~~[authority]~~ that relate to the operation of private sector prison industries programs.

(a-1) The board shall ensure that private sector prison industries programs are operated under this subchapter in a manner that is designed to avoid the loss of existing jobs for employees in this state who are not incarcerated or imprisoned.

(b) In this subchapter:

(1) "Governmental entity" means the department, the Texas Youth Commission, and any county that operates a private sector prison industries program under this subchapter. ~~["Authority" means the Private Sector Prison Industries Oversight Authority.]~~

(2) "Participant" means a participant in a private sector prison industries program.

(c) This subchapter does not authorize the board to direct the general operations of or to govern the Texas Youth Commission or county correctional facilities in any manner not specifically described by Subsection (a).

SECTION 8. Section 497.0527, Government Code, is amended to read as follows:

Sec. 497.0527. COMPLAINTS. (a) The board ~~[authority]~~ shall maintain a file on each written complaint filed with the board in relation to a private sector prison industries program ~~[authority]~~. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the board ~~[authority]~~;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the board ~~[authority]~~ closed the file without taking action other than to investigate the complaint.

(b) The board ~~[authority]~~ shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's ~~[authority's]~~ policies and procedures relating to complaint investigation and resolution.

(c) The board [authority], at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation, unless the notice would jeopardize an undercover investigation.

SECTION 9. The heading to Section 497.056, Government Code, is amended to read as follows:

Sec. 497.056. PRIVATE SECTOR PRISON INDUSTRIES ~~[EXPANSION]~~ ACCOUNT.

SECTION 10. Sections 497.056(b) and (c), Government Code, are amended to read as follows:

(b) ~~The [To construct more facilities and increase the number of participants, the]~~ private sector prison industry ~~[expansion]~~ account is created as an account in the general revenue fund. Money in the account may be appropriated only to:

(1) ~~[construct work facilities,]~~ recruit corporations to participate as private sector industries programs;

(2) ~~[- and]~~ pay costs of the board [authority] and department in implementing this subchapter, including the cost to the department in reimbursing board [authority] members ~~[and the employer liaison]~~ for expenses; and

(3) pay costs associated with the storage of evidence:

(A) containing biological material and used in the prosecution and conviction of an offense; or

(B) of a sexual assault or other sex offense.

(c) On each certification by the department that an amount has been deposited to the credit of the general revenue fund from deductions from participants' wages under Section 497.0581, the comptroller shall transfer an equivalent amount from the general revenue fund to the private sector prison industry ~~[expansion]~~ account, until the balance in the account is \$1 ~~[\$2]~~ million. The balance of the account may not exceed \$1 million ~~[On a certification occurring when the balance in the account is more than \$2 million, the comptroller shall transfer to the account an amount equal to one half of the amount deposited to the credit of the general revenue fund from deductions from participants' wages].~~

SECTION 11. Section 497.057, Government Code, is amended to read as follows:

Sec. 497.057. RULES. The board [authority] shall adopt rules as necessary to ensure that the private sector prison industries program authorized by this subchapter is in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761.

SECTION 12. Section 497.058(a), Government Code, is amended to read as follows:

(a) The board [authority] by rule shall require that participants at each private sector prison industries program be paid not less than the prison industry enhancement certification program (PIECP) wage as computed by the Texas Workforce Commission, except that:

(1) the board [authority] may permit employers to pay a participant the federal minimum wage for the two-month period beginning on the date participation begins; and

(2) the minimum wage for participants committed to ~~[under the supervision of]~~ the Texas Youth Commission, because of the age of the participants and the extensive training component of their employment, is the federal minimum wage.

SECTION 13. Section 497.0581, Government Code, is amended to read as follows:

Sec. 497.0581. PARTICIPANT CONTRIBUTIONS; ASSISTANCE ACCOUNT. (a) The board [authority] by rule shall determine the amount of deductions to be taken from wages received by the participant under this subchapter and the disbursement of those deductions. The board [authority] may establish deductions for participants committed to ~~[under the supervision of]~~ the Texas Youth Commission that are different than deductions established for other participants in the program. In determining the amount of deductions under this section, the board [authority] shall ensure that the deductions do not place the private sector prison industries programs in the department in noncompliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761.

(b) The private sector prison industry crime victims assistance account is created as an account in the general revenue fund. Money in the account may be appropriated only to the board [authority] for the purpose of aiding victims of crime, under rules adopted by the board [authority].

SECTION 14. The heading to Section 497.059, Government Code, is amended to read as follows:

Sec. 497.059. LIMITING IMPACT OF CERTIFICATION ON NON-PRISON INDUSTRY.

SECTION 15. Sections 497.059(a) and (b), Government Code, are amended to read as follows:

(a) The board [authority] may not grant initial certification to a private sector prison industries program if the board [authority] determines that the operation of the program would result in the loss of existing jobs provided by any [the] employer in this state.

(b) The board [authority] shall adopt rules to determine whether a program would cause the loss of existing jobs of a specific type provided by an [the] employer in this state.

SECTION 16. Subchapter C, Chapter 497, Government Code, is amended by adding Sections 497.0595 and 497.0596 to read as follows:

Sec. 497.0595. LIMITATION ON CONTRACTS. (a) A governmental entity may not enter into a contract or renew a contract with an employer for a private sector prison industries program under this subchapter if the board determines that the contract has negatively affected or would negatively affect any employer in this state, including through the loss of existing jobs provided by the employer to employees in this state who are not incarcerated or imprisoned.

(b) The board shall adopt rules that establish a procedure to be used in making the determination described by Subsection (a). The procedure must allow an aggrieved employer in this state to submit a sworn statement to the board alleging that the employer has been or would be negatively affected by the contract to be entered into or renewed.

(c) For the purposes of this section, a contract does not negatively affect an employer if the only negative effect alleged in a sworn statement by the employer is the loss of existing jobs that, at the time the sworn statement is submitted to the board, are performed by workers in a foreign country.

Sec. 497.0596. NOTICE CONCERNING CERTAIN CONTRACTS. (a) Not later than the 60th day before the date a governmental entity intends to enter into a contract with an employer for a private sector prison industries program under this subchapter, the governmental entity shall notify:

(1) the state senator and state representative in whose district the program covered by the contract is or will be located;

(2) the executive heads of the Texas AFL-CIO, the Texas Association of Manufacturers, the National Federation of Independent Business/Texas, the Texas Association of Business, and the Texas Association of Workforce Boards;

(3) the chamber of commerce in any municipality or county in which the program covered by the contract is or will be located; and

(4) any employer that employs persons in this state who are not incarcerated or imprisoned and who, as determined under rules adopted by the Texas Workforce Commission to implement this subdivision:

(A) perform work in the same job descriptions as participants in the program covered by the contract will perform; or

(B) are otherwise engaged in the manufacture of the same or a substantially similar product as will be manufactured under the contract.

(b) The notice required by Subsection (a) must include a specific description, in plain language and in an easily readable and understandable format, of any product that will be manufactured under the contract.

(c) A governmental entity that provides notice under Subsection (a) may charge the employer with whom the governmental entity intends to enter into the contract for the cost of providing that notice.

SECTION 17. Sections 497.060, 497.061, and 497.062, Government Code, are amended to read as follows:

Sec. 497.060. WORKERS' COMPENSATION. The board [~~authority~~] by rule shall require private sector prison industries program employers to meet or exceed all federal requirements for providing compensation to participants injured while working.

Sec. 497.061. RECIDIVISM STUDIES. The board [~~authority, with the cooperation of the Criminal Justice Policy Council,~~] shall gather data to determine whether participation in a private sector prison industries program is a factor that reduces recidivism among participants.

Sec. 497.062. LIMITATION ON NUMBER OF PARTICIPANTS AND COST ACCOUNTING CENTERS [~~GOALS~~]. (a) The board [~~authority~~] may certify [~~any number of~~] private sector prison industries programs that meet or

exceed the requirements of federal law and the rules of the board. Except as provided by Subsection (b), the board may not allow [~~authority, but in no event may the authority permit~~] more than 750 [5,000] participants in the program at any one time or authorize the operation of more than 11 cost accounting centers at any one time.

(b) The board may allow more than 750 participants in the program at one time on a temporary basis if:

(1) an employer that operates a private sector prison industries program requests in writing that the board temporarily allow more than 750 participants in the program; and

(2) the board determines that there is good cause to temporarily allow more than 750 participants in the program [~~authority shall establish as a goal that the program have at least 1,800 participants by January 1, 2006~~].

SECTION 18. Subchapter C, Chapter 497, Government Code, is amended by adding Sections 497.063 and 497.064 to read as follows:

Sec. 497.063. CONTRACT REQUIREMENTS. (a) The board shall adopt rules requiring a contract entered into by a governmental entity concerning a private sector prison industries program operated under this subchapter to:

(1) include specific job descriptions for any work that will be performed by participants under the contract;

(2) include a specific description, in plain language and in an easily readable and understandable format, of any product that will be manufactured under the contract; and

(3) charge a private sector prison industries employer or other participating entity the fair market value for the lease of any property owned by the governmental entity and leased to the employer or entity under the contract.

(b) For the purposes of Subsection (a), "fair market value" means an amount or rate that is equal to or greater than the average amount or rate paid by the state for the lease of substantially similar property.

Sec. 497.064. AVAILABILITY OF CERTAIN INFORMATION ON INTERNET. The board shall make the following information available on any publicly accessible Internet website that is maintained by the board and contains any information concerning the private sector prison industries programs operated under this subchapter:

(1) a copy of each current contract entered into by a governmental entity;

(2) a list of hourly wages paid to participants under each contract described by Subdivision (1); and

(3) minutes of any meeting of the board in which the board discusses or takes action concerning:

(A) the board's powers and duties under this subchapter; or

(B) one or more private sector prison industries programs operated under this subchapter.

SECTION 19. Subchapter A, Chapter 302, Labor Code, is amended by adding Section 302.016 to read as follows:

Sec. 302.016. RULES REGARDING PRIVATE SECTOR PRISON INDUSTRIES PROGRAMS. The commission shall adopt rules necessary to implement Section 497.0596(a)(4), Government Code.

SECTION 20. Sections 497.009, 497.052, 497.0521, 497.0522, 497.0523, 497.0524, 497.0525, 497.0526, 497.053, 497.054, and 497.055, Government Code, are repealed.

SECTION 21. (a) On the date on which the Texas Board of Criminal Justice is designated as the certificate holder for this state by the Bureau of Justice Assistance, the Private Sector Prison Industries Oversight Authority is abolished and all powers, duties, obligations, rights, contracts, appropriations, records, real or personal property, and personnel of the Private Sector Prison Industries Oversight Authority are transferred to the Texas Board of Criminal Justice in accordance with Subchapter C, Chapter 497, Government Code, as amended by this Act. Notwithstanding any other provision of this Act, before the date on which the Texas Board of Criminal Justice is designated as the certificate holder for this state by the Bureau of Justice Assistance, the Private Sector Prison Industries Oversight Authority shall continue to fulfill all duties and exercise all powers given to the authority under Subchapter C, Chapter 497, Government Code, as that law existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) A rule, policy, procedure, or decision of the Private Sector Prison Industries Oversight Authority continues in effect as a rule, policy, procedure, or decision of the Texas Board of Criminal Justice until repealed or otherwise superseded by an act of the board.

(c) On or after the date on which the Texas Board of Criminal Justice is designated as the certificate holder for this state by the Bureau of Justice Assistance, a reference in law to the Private Sector Prison Industries Oversight Authority means the Texas Board of Criminal Justice.

SECTION 22. (a) Except as provided by Section 492.0031(d), Government Code, as added by this Act, Sections 492.003(c) and 492.0031(b-1), Government Code, as amended by this Act, apply only to a member of the Texas Board of Criminal Justice who is appointed on or after the effective date of this Act. Except as provided by Section 492.0031(d), Government Code, as added by this Act, a member who is appointed to the board before the effective date of this Act is governed by the law in effect when the member was appointed, and the former law is continued in effect for that purpose.

(b) As soon as practicable after the effective date of this Act and not later than January 1, 2010, the Texas Workforce Commission shall adopt rules as required by Section 302.016, Labor Code, as added by this Act.

(c) Section 497.051(a-1), Government Code, as added by this Act, applies only to the operation of a private sector prison industries program that is certified on or after the effective date of this Act or to a private sector prison industries program that was certified before the effective date of this Act but is not in operation on the effective date of this Act. Section 497.051(a-1), Government Code, as added by this Act, does not apply to the operation of a private sector prison industries program that was certified before the effective date of this Act

and is in operation on the effective date of this Act. The operation of that program is governed by the law in effect when the program was certified, and the former law is continued in effect for that purpose.

(d) Section 497.059, Government Code, as amended by this Act, applies only to the certification of a private sector prison industries program that occurs on or after the effective date of this Act. The certification of a private sector prison industries program that occurs before the effective date of this Act is governed by the law in effect when the program was certified, and the former law is continued in effect for that purpose.

(e) Sections 497.0595 and 497.0596, Government Code, as added by this Act, apply only to a contract that is entered into or renewed in connection with a private sector prison industries program that is certified on or after the effective date of this Act or a private sector prison industries program that was certified before the effective date of this Act but is not in operation on the effective date of this Act. A contract that is entered into or renewed in connection with a private sector prison industries program that was certified before the effective date of this Act and is in operation on the effective date of this Act is governed by the law in effect when the program was certified, and the former law is continued in effect for that purpose.

(f) A rule adopted by the Texas Board of Criminal Justice under Section 497.063, Government Code, as added by this Act, applies only to a contract in connection with a private sector prison industries program that is certified on or after the effective date of this Act or to a contract in connection with a private sector prison industries program that was certified before the effective date of this Act but is not in operation on the effective date of this Act.

SECTION 23. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory unless a specific appropriation has been made to implement the provision or it is determined by the agency that the provisions imposed by this Act may be absorbed within agency resources during the fiscal period without additional state funding.

SECTION 24. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative McReynolds moved to adopt the conference committee report on **HB 1914**.

The motion to adopt the conference committee report on **HB 1914** prevailed by (Record 1588): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren;

~~[(B) advertised, offered for sale, suitable for use, or used as a motor fuel in an internal combustion engine].~~

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, that is suitable for or used for the propulsion of diesel-powered motor vehicles. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, renewable diesel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include gasoline, aviation gasoline, or liquefied gas.

(53-a) "Renewable diesel" has the meaning assigned by Section 16.001, Agriculture Code.

SECTION 2. Section 162.204(a), Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; or

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule.

SECTION 3. The heading to Chapter 16, Agriculture Code, is amended to read as follows:

CHAPTER 16. FUEL ETHANOL, ~~AND~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION INCENTIVE PROGRAM

SECTION 4. Section 16.001, Agriculture Code, is amended by amending Subdivisions (1), (3), and (6) and adding Subdivision (7) to read as follows:

(1) "Account" means the fuel ethanol, ~~and~~ biodiesel, and renewable diesel production account.

(3) "Biodiesel" means a motor fuel that:

(A) meets the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under Section 211 of the federal Clean Air Act (42 U.S.C. Section 7545);

(B) is mono-alkyl esters of long chain fatty acids derived from vegetable oils and animal fats;

(C) meets the requirements of ASTM specification D-6751;

(D) is intended for use in engines that are designed to run on conventional, petroleum-derived diesel fuel; and

(E) is derived from agricultural products, vegetable oils, recycled greases, biomass, or animal fats or the wastes of those products or fats [~~a~~ monoalkyl ester that:

~~(A) is derived from vegetable oils, rendered animal fats, or renewable lipids or a combination of those ingredients; and~~

~~[(B) meets the requirements of ASTM PS 121, the provisional specification for biodiesel].~~

(6) "Producer" means a person who operates a fuel ethanol, ~~or~~ biodiesel, or renewable diesel plant in this state.

(7) "Renewable diesel" means a motor fuel that:

(A) meets the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under Section 211 of the federal Clean Air Act (42 U.S.C. Section 7545);

(B) is a hydrocarbon;

(C) meets the requirements of ASTM specification D-975;

(D) is intended for use in engines that are designed to run on conventional, petroleum-derived diesel fuel; and

(E) is derived from agricultural products, vegetable oils, recycled greases, biomass, or animal fats or the wastes of those products or fats.

SECTION 5. Sections 16.002(a) and (b), Agriculture Code, are amended to read as follows:

(a) To be eligible for a grant for fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced in a plant, a producer must apply to the office for the registration of the plant. A producer may apply for the registration of more than one plant.

(b) An application for the registration of a plant must show to the satisfaction of the office that:

(1) the plant is capable of producing fuel ethanol, ~~or~~ biodiesel, or renewable diesel;

(2) the producer has made a substantial investment of resources in this state in connection with the plant; and

(3) the plant constitutes a permanent fixture in this state.

SECTION 6. Section 16.003(a), Agriculture Code, is amended to read as follows:

(a) On or before the fifth day of each month, a producer shall report to the office on:

(1) the number of gallons of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced at each registered plant operated by the producer during the preceding month;

(2) the number of gallons of fuel ethanol, ~~or~~ biodiesel, or renewable diesel imported into this state by the producer during the preceding month;

(3) the number of gallons of fuel ethanol, ~~or~~ biodiesel, or renewable diesel sold or blended with motor fuels by the producer during the preceding month; and

(4) the total value of agricultural products consumed in each registered plant operated by the producer during the preceding month.

SECTION 7. The heading to Section 16.004, Agriculture Code, is amended to read as follows:

Sec. 16.004. FUEL ETHANOL, ~~AND~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION ACCOUNT.

SECTION 8. Section 16.004(a), Agriculture Code, is amended to read as follows:

(a) The fuel ethanol, ~~and~~ biodiesel, and renewable diesel production account is an account in the general revenue fund that may be appropriated only to the office for the purposes of this chapter, including the making of grants under this chapter.

SECTION 9. The heading to Section 16.005, Agriculture Code, is amended to read as follows:

Sec. 16.005. FEE ON FUEL ETHANOL, ~~AND~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION.

SECTION 10. Sections 16.005(a), (b), and (d), Agriculture Code, are amended to read as follows:

(a) The office shall impose a fee on each producer in an amount equal to 3.2 cents for each gallon of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced in each registered plant operated by the producer.

(b) For each fiscal year, the office may not impose fees on a producer for more than 18 million gallons of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced at any one registered plant.

(d) The office may not impose fees on a producer for fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced at a registered plant after the 10th anniversary of the date production from the plant begins.

SECTION 11. The heading to Section 16.006, Agriculture Code, is amended to read as follows:

Sec. 16.006. FUEL ETHANOL, ~~AND~~ BIODIESEL, AND RENEWABLE DIESEL GRANTS.

SECTION 12. Sections 16.006(a), (b), (c), and (e), Agriculture Code, are amended to read as follows:

(a) The office, after consultation with the department, shall make grants to producers as an incentive for the development of the fuel ethanol, ~~and~~ biodiesel, and renewable diesel industry and agricultural production in this state.

(b) A producer is entitled to receive from the account 20 cents for each gallon of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced in each registered plant operated by the producer until the 10th anniversary of the date production from the plant begins. The incentive under this subsection is payable only on that part of each gallon of fuel produced from renewable resources.

(c) For each fiscal year a producer may not receive grants for more than 18 million gallons of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced at any one registered plant.

(e) If the office determines that the amount of money credited to the account is not sufficient to distribute the full amount of grant funds to eligible producers as provided by this chapter for a fiscal year, the office shall proportionately reduce the amount of each grant for each gallon of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced as necessary to continue the incentive program during the remainder of the fiscal year.

SECTION 13. The change in law made by Section 2 of this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 14. The change in law made by this Act to Chapter 16, Agriculture Code, applies only to a fee that is imposed on or after the effective date of this Act. A fee that is imposed before the effective date of this Act is governed by the law in effect when the fee was imposed, and that law is continued in effect for that purpose.

SECTION 15. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Gonzalez Tourelles moved to adopt the conference committee report on **HB 2582**.

The motion to adopt the conference committee report on **HB 2582** prevailed by (Record 1589): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Anderson; Burnam; Flores; Gutierrez; Woolley.

STATEMENT OF VOTE

When Record No. 1589 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

HB 3864 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the following conference committee report on **HB 3864**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3864** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger	Smithee
Deuell	Heflin
Eltife	McCall
Hinojosa	Swinford
Shapleigh	

On the part of the senate

On the part of the house

HB 3864, A bill to be entitled An Act relating to the acceptance of certain donated building projects by the Parks and Wildlife Department.

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

SECTION 1. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0285 to read as follows:

Sec. 11.0285. DONATED BUILDING PROJECTS. (a) The department may accept the donation of a turnkey building project on state land provided that the department:

- (1) approves the plans and engineering in advance; and
- (2) has supervision over the project.

(b) A project under this section is not subject to competitive bidding.

(c) The commission may adopt rules to implement this section.

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, 2009.

Representative Smithee moved to adopt the conference committee report on **HB 3864**.

The motion to adopt the conference committee report on **HB 3864** prevailed by (Record 1590): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England;

Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Flores; Pierson.

HJR 127 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative P. King submitted the following conference committee report on **HJR 127**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HJR 127** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona	P. King
Averitt	Flynn
Deuell	Guillen
Watson	Vaught
	Peña

On the part of the senate

On the part of the house

HJR 127, A joint resolution proposing a constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices.

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

SECTION 1. Section 40(a), Article XVI, Texas Constitution, is amended to read as follows:

(a) No person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers and enlisted members of the Texas State Guard and any other active militia or military force organized under state law, and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, ~~and~~ the National Guard Reserve, the Texas State Guard, and any other active militia or military force organized under state law, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States, or retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices."

Representative P. King moved to adopt the conference committee report on **HJR 127**.

The motion to adopt the conference committee report on **HJR 127** prevailed by (Record 1591): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat;

Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Flores; Kolkhorst.

SB 1219 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Deshotel submitted the conference committee report on **SB 1219**.

Representative Deshotel moved to adopt the conference committee report on **SB 1219**.

The motion to adopt the conference committee report on **SB 1219** prevailed by (Record 1592): 100 Yeas, 41 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Bolton; Bonnen; Branch; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Corte; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Isett; Keffer; Kent; King, P.; King, S.; King, T.; Kolkhorst; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Aycock; Brown, B.; Brown, F.; Button; Callegari; Christian; Cook; Crabb; Craddock; Crownover; Darby; Elkins; Fletcher; Flynn; Gattis; Hardcastle; Harless; Harper-Brown; Howard, C.; Hughes; Jackson; Jones; Kleinschmidt; Laubenberg; Lewis; Madden; McCall; Merritt; Miller, D.; Miller, S.; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, W.; Weber; Woolley.

Present, not voting — Mr. Speaker(C); Davis, Y.; Truitt.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Creighton; Pickett.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1592. I intended to vote no.

Corte

When Record No. 1592 was taken, I was in the house but away from my desk. I would have voted no.

Creighton

I was shown voting yes on Record No. 1592. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1592. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1592. I intended to vote no.

S. King

I was shown voting yes on Record No. 1592. I intended to vote no.

Kolkhorst

HB 451 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Allen submitted the following conference committee report on **HB 451**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 451** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro
Deuell
Van de Putte
Lucio
Carona

Allen
Bolton
Herrero
Cohen
Leibowitz
On the part of the house

On the part of the senate

HB 451, A bill to be entitled An Act relating to health benefit plan coverage for autism spectrum disorder.

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

SECTION 1. Section 1355.002, Insurance Code, is amended to read as follows:

Sec. 1355.002. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a group health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including:

(1) a group insurance policy, group insurance agreement, group hospital service contract, or group evidence of coverage that is offered by:

(A) an insurance company;

(B) a group hospital service corporation operating under Chapter 842;

(C) a fraternal benefit society operating under Chapter 885;

(D) a stipulated premium company operating under Chapter 884;

or

(E) a health maintenance organization operating under Chapter 843; and

(2) to the extent permitted by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a plan offered under:

(A) a multiple employer welfare arrangement as defined by Section 3 of that Act; or

(B) another analogous benefit arrangement.

(b) Notwithstanding any provision in Chapter 1575 or 1579 or any other law, Section 1355.015 applies to:

(1) a basic plan under Chapter 1575; and

(2) a primary care coverage plan under Chapter 1579.

SECTION 2. Section 1355.015(a), Insurance Code, is amended to read as follows:

(a) At a minimum, a health benefit plan must provide coverage as provided by this section to an enrollee [~~older than two years of age and younger than six years of age~~] who is diagnosed with autism spectrum disorder from the date of diagnosis until the enrollee completes nine years of age. If an enrollee who is being treated for autism spectrum disorder becomes 10 [~~six~~] years of age or older and continues to need treatment, this subsection does not preclude coverage of treatment and services described by Subsection (b).

SECTION 3. This Act applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2010. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2010, 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 4. This Act takes effect September 1, 2009.

Representative Allen moved to adopt the conference committee report on **HB 451**.

The motion to adopt the conference committee report on **HB 451** prevailed by (Record 1593): 122 Yeas, 20 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Bolton; Bonnen; Branch; Burnam; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon;

McReynolds; Menendez; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Aycock; Brown, B.; Brown, F.; Button; Callegari; Cook; Elkins; Fletcher; Flynn; Harper-Brown; Hughes; Isett; Laubenberg; Merritt; Miller, D.; Miller, S.; Riddle; Weber; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Deshotel; King, S.; Pierson.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1593. I intended to vote yes.

Button

I was shown voting no on Record No. 1593. I intended to vote yes.

Callegari

I was shown voting no on Record No. 1593. I intended to vote yes.

Harper-Brown

I was shown voting no on Record No. 1593. I intended to vote yes.

D. Miller

HB 1041 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Parker submitted the following conference committee report on **HB 1041**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1041** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

West	Chavez
Averitt	Shelton
Nelson	Rose
Shapiro	Zerwas
Uresti	Parker
On the part of the senate	On the part of the house

HB 1041, A bill to be entitled An Act relating to school district policies addressing sexual abuse of children and establishment of a state strategy to reduce child abuse and neglect and improve child welfare.

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

SECTION 1. This Act shall be known as Jenna's Law.

SECTION 2. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.0041 to read as follows:

Sec. 38.0041. POLICIES ADDRESSING SEXUAL ABUSE OF CHILDREN. (a) Each school district shall adopt and implement a policy addressing sexual abuse of children to be included in the district improvement plan under Section 11.252 and any informational handbook provided to students and parents.

(b) A policy required by this section must address:

(1) methods for increasing teacher, student, and parent awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse, using resources developed by the agency under Section 38.004;

(2) actions that a child who is a victim of sexual abuse should take to obtain assistance and intervention; and

(3) available counseling options for students affected by sexual abuse.

SECTION 3. (a) In this section, "task force" means the task force established under this section to establish a strategy for reducing child abuse and neglect and improving child welfare.

(b) The task force consists of nine members appointed as follows:

(1) five members appointed by the governor;

(2) two members appointed by the lieutenant governor; and

(3) two members appointed by the speaker of the house of representatives.

(c) Members of the task force must be individuals who are actively involved in the fields of the prevention of child abuse and neglect and child welfare. The appointment of members must reflect the geographic diversity of the state.

(d) The task force shall elect a presiding officer by a majority vote of the membership of the task force.

(e) The task force shall meet at the call of the presiding officer.

(f) Chapter 2110, Government Code, does not apply to the task force.

(g) The task force shall establish a strategy for reducing child abuse and neglect and for improving child welfare in this state. In establishing that strategy, the task force shall:

(1) gather information concerning child safety, child abuse and neglect, and child welfare throughout the state;

(2) review the exemptions from criminal liability provided under the Penal Code to a mother who injures her unborn child by using a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a

controlled substance legally obtained by prescription, during her pregnancy and examine the effect that repealing the exemptions will have on reducing the number of babies who are born addicted to a controlled substance;

(3) receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations;

(4) create goals for state policy that would improve child safety, prevent child abuse and neglect, and improve child welfare; and

(5) submit a strategic plan to accomplish those goals.

(h) The strategic plan submitted under Subsection (g) of this section may include proposals for specific statutory changes, the creation of new programs, and methods to foster cooperation among state agencies and between the state and local government.

(i) The task force shall consult with employees of the Department of Family and Protective Services, the Department of State Health Services, and the Texas Department of Criminal Justice as necessary to accomplish the task force's responsibilities under this Act.

(j) The task force may cooperate as necessary with any other appropriate state agency.

(k) The governor, lieutenant governor, and speaker of the house of representatives shall appoint the members of the task force not later than October 1, 2009.

(l) Not later than November 1, 2010, the task force shall submit the strategic plan required by Subsection (g) of this section to the governor, lieutenant governor, and speaker of the house of representatives.

(m) The task force is abolished and this section expires on September 1, 2011.

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, 2009.

Representative Parker moved to adopt the conference committee report on **HB 1041**.

The motion to adopt the conference committee report on **HB 1041** prevailed by (Record 1594): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.;

Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

HR 2873 - ADOPTED
(by Woolley)

Representative Woolley moved to suspend all necessary rules to take up and consider at this time **HR 2873**.

The motion prevailed.

The following resolution was laid before the house:

HR 2873, Honoring Heather Crosby on her graduation from The University of Texas at Austin.

HR 2873 was adopted.

HB 1924 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Heflin submitted the following conference committee report on **HB 1924**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1924** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger	Heflin
Nichols	Hopson
Uresti	Chisum
Van de Putte	Swinford
On the part of the senate	On the part of the house

HB 1924, A bill to be entitled An Act relating to the performance of pharmacy services in certain rural areas.

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

SECTION 1. Subchapter C, Chapter 562, Occupations Code, is amended by adding Section 562.1011 to read as follows:

Sec. 562.1011. OPERATION OF CLASS C PHARMACY IN CERTAIN RURAL HOSPITALS. (a) In this section:

(1) "Nurse" has the meaning assigned by Section 301.002. The term includes a nurse who is also registered as a pharmacy technician.

(2) "Rural hospital" means a licensed hospital with 75 beds or fewer that:

(A) is located in a county with a population of 50,000 or less; or

(B) has been designated by the Centers for Medicare and Medicaid Services as a critical access hospital, rural referral center, or sole community hospital.

(b) If a practitioner orders a prescription drug or device for a patient in a rural hospital when the hospital pharmacist is not on duty or when the institutional pharmacy is closed, a nurse or practitioner may withdraw the drug or device from the pharmacy in sufficient quantity to fill the order.

(c) The hospital pharmacist shall verify the withdrawal of a drug or device under Subsection (b) and perform a drug regimen review not later than the seventh day after the date of the withdrawal.

(d) In a rural hospital that uses a floor stock method of drug distribution, a nurse or practitioner may withdraw a prescription drug or device from the institutional pharmacy in the original manufacturer's container or a prepackaged container.

(e) The hospital pharmacist shall verify the withdrawal of a drug or device under Subsection (d) and perform a drug regimen review not later than the seventh day after the date of the withdrawal.

(f) A rural hospital may allow a pharmacy technician to perform the duties specified in Subsection (g) if:

(1) the pharmacy technician is registered and meets the training requirements specified by the board;

(2) a pharmacist is accessible at all times to respond to any questions and needs of the pharmacy technician or other hospital employees, by telephone, answering or paging service, e-mail, or any other system that makes a pharmacist accessible; and

(3) a nurse or practitioner or a pharmacist by remote access verifies the accuracy of the actions of the pharmacy technician.

(g) If the requirements of Subsection (f) are met, the pharmacy technician may, during the hours that the institutional pharmacy in the hospital is open, perform the following duties in the pharmacy without the direct supervision of a pharmacist:

(1) enter medication order and drug distribution information into a data processing system;

(2) prepare, package, or label a prescription drug according to a medication order if a licensed nurse or practitioner verifies the accuracy of the order before administration of the drug to the patient;

(3) fill a medication cart used in the rural hospital;

(4) distribute routine orders for stock supplies to patient care areas;

(5) access and restock automated medication supply cabinets; and

(6) perform any other duty specified by the board by rule.

(h) The pharmacist-in-charge of an institutional pharmacy in a rural hospital shall develop and implement policies and procedures for the operation of the pharmacy when a pharmacist is not on-site.

(i) On or after September 1, 2011, the board may establish, by rule, a requirement for prospective and retrospective drug use review by a pharmacist for each new drug order. A drug use review is not required when a delay in administration of the drug would harm the patient in an urgent or emergency situation, including sudden changes in a patient's clinical status.

(j) Rural hospitals may establish standing orders and protocols, to be developed jointly by the pharmacist and medical staff, that may include additional exceptions to instances in which prospective drug use review is required.

(k) This section does not restrict or prohibit the board from adopting a rule related to authorizing the withdrawal of a drug or device by a nurse or practitioner from, or the supervision of a pharmacy technician in, an institutional pharmacy not located in a rural hospital. As part of the rulemaking process, the board shall consider the effect that a proposed rule, if adopted, would have on access to pharmacy services in hospitals that are not rural hospitals.

(l) The board shall adopt rules to implement this section, including rules specifying:

(1) the records that must be maintained under this section;

(2) the requirements for policies and procedures for operation of a pharmacy when a pharmacist is not on-site; and

(3) the training requirements for pharmacy technicians.

SECTION 2. Chapter 568, Occupations Code, is amended by adding Section 568.008 to read as follows:

Sec. 568.008. TECHNICIANS IN HOSPITALS WITH CLINICAL PHARMACY PROGRAM. (a) In this section, "clinical pharmacy program" means a program that provides pharmaceutical care services as specified by board rule.

(b) A Class C pharmacy that has an ongoing clinical pharmacy program may allow a pharmacy technician to verify the accuracy of work performed by another pharmacy technician relating to the filling of floor stock and unit dose distribution systems for a patient admitted to the hospital if the patient's orders have previously been reviewed and approved by a pharmacist.

(c) The pharmacist-in-charge of the clinical pharmacy program shall adopt policies and procedures for the verification process authorized by this section.

(d) A hospital must notify the board before implementing the verification process authorized by this section.

(e) The board shall adopt rules to implement this section, including rules specifying:

(1) the duties that may be verified by another pharmacy technician;

(2) the records that must be maintained for the verification process; and

(3) the training requirements for pharmacy technicians who verify the accuracy of the work of other pharmacy technicians.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Heflin moved to adopt the conference committee report on **HB 1924**.

The motion to adopt the conference committee report on **HB 1924** prevailed by (Record 1595): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

HB 3065 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bohac submitted the following conference committee report on **HB 3065**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3065** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis
Wentworth

Bohac
Hopson

West
Carona
On the part of the senate

Jackson
Solomons
On the part of the house

HB 3065, A bill to be entitled An Act relating to municipal registration of vacant buildings in certain counties.

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

SECTION 1. Chapter 214, Local Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. REGISTRATION OF VACANT BUILDINGS

Sec. 214.231. DEFINITIONS. In this subchapter:

(1) "Building" means any enclosed structure designed for use as a habitation or for a commercial use, including engaging in trade or manufacture.

(2) "Owner" means the person that owns the real property on which a building is situated, according to:

(A) the real property records of the county in which the property is located; or

(B) the records of the appraisal district in which the property is located.

(3) "Unit" means an enclosed area designed:

(A) for habitation by a single family; or

(B) for a commercial use, including engaging in trade or manufacture, by a tenant.

Sec. 214.232. PRESUMPTION OF VACANCY. A building is presumed to be vacant under this subchapter if:

(1) all lawful residential, commercial, recreational, charitable, or construction activity at the building has ceased, or reasonably appears to have ceased, for more than 150 days; or

(2) the building contains more than three units, 75 percent or more of which have not been used lawfully, or reasonably appear not to have been used lawfully, for more than 150 days.

Sec. 214.233. REGISTRATION. (a) A municipality located in a county with a population of 1.5 million or more may adopt an ordinance requiring owners of vacant buildings to register their buildings by filing a registration form with a designated municipal official.

(b) A municipality, in an ordinance adopted under this subchapter, may exempt certain classifications of buildings as determined reasonable and appropriate by the governing body of the municipality.

Sec. 214.234. FORM. An ordinance adopted under this subchapter may require a designated municipal official to adopt a form for registration. The form adopted may require the disclosure of information reasonably necessary for the municipality to minimize the threat to health, safety, and welfare that a vacant building may present to the public.

SECTION 2. This Act takes effect January 1, 2010.

Representative Bohac moved to adopt the conference committee report on **HB 3065**.

The motion to adopt the conference committee report on **HB 3065** prevailed by (Record 1596): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Pitts; Swinford; Thompson.

HB 3751 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the following conference committee report on **HB 3751**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3751** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro
Averitt
Hinojosa
Ogden
Patrick
On the part of the senate

Gallego
Moody
Miklos
Fletcher
Christian
On the part of the house

HB 3751, A bill to be entitled An Act relating to the conditions of bond for a defendant charged with committing certain offenses against a child and to the denial of bail pending trial with respect to certain defendants who violate those conditions.

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

SECTION 1. Articles 17.41(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) This article applies to a defendant charged with an offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 ~~[+2]~~ years of age ~~[or younger]~~:

- (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct); or
- (3) Section 43.25 (Sexual Performance by a Child).

(b) Subject to Subsections (c) and (d), a ~~[A]~~ magistrate shall ~~[may]~~ require as a condition of bond for a defendant charged with an offense described by Subsection (a) ~~[of this article]~~ that the defendant not:

- (1) directly communicate with the alleged victim of the offense; or
- (2) go near a residence, school, or other location, as specifically described in the bond, frequented by the alleged victim.

SECTION 2. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.153 to read as follows:

Art. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF BOND WHERE CHILD ALLEGED VICTIM. (a) This article applies to a defendant charged with a felony offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 years of age:

- (1) Chapter 21 (Sexual Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct); or
- (3) Section 43.25 (Sexual Performance by a Child).

(b) A defendant described by Subsection (a) who violates a condition of bond set under Article 17.41 and whose bail in the case is revoked for the violation may be taken into custody and denied release on bail pending trial if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community. If the magistrate finds that the violation occurred, the magistrate may revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

Representative Gallego moved to adopt the conference committee report on **HB 3751**.

The motion to adopt the conference committee report on **HB 3751** prevailed by (Record 1597): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Burnam; Davis, Y.

HR 2922 - ADOPTED
(by Castro)

The following privileged resolution was laid before the house:

HR 2922

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1722** (proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County) to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in SECTION 1 of the bill, in Section 54.906(a)(8), Government Code, to read as follows:

(8) any other plea matter the judge considers necessary and proper, including a negotiated plea of guilty before the court.

Explanation: This change is necessary to maintain the authority of a district judge in Bexar County to refer proceedings in criminal cases involving negotiated pleas of guilty to a criminal law magistrate.

HR 2922 was adopted by (Record 1598): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Peña.

STATEMENT OF VOTE

When Record No. 1598 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

HB 1722 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Castro submitted the following conference committee report on **HB 1722**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1722** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Uresti	Castro
Hegar	Gallego
Hinojosa	Moody
Huffman	Hunter
Seliger	Phillips
On the part of the senate	On the part of the house

HB 1722, A bill to be entitled An Act relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.

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

SECTION 1. Section 54.906, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A judge may refer to a magistrate any criminal case for proceedings involving:

- (1) a bond forfeiture;
- (2) a pretrial motion;
- (3) a postconviction writ of habeas corpus;
- (4) an examining trial;
- (5) the issuance of search warrants, including a search warrant under Article 18.02(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure;

- (6) the setting of bonds;
- (7) the arraignment of defendants; and
- (8) any other matter the judge considers necessary and proper, including a negotiated plea of guilty before the court.

(c) Subsection (a)(5) does not apply to the issuance of a subsequent search warrant under Article 18.02(10), Code of Criminal Procedure.

SECTION 2. Section 54.908, Government Code, is amended to read as follows:

Sec. 54.908. POWERS. (a) Except as limited by an order of referral, a magistrate to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on a pretrial motion;
- (11) recommend the rulings, orders, or judgment to be made in a case;
- (12) regulate proceedings in a hearing;

(13) accept a plea of guilty for a misdemeanor from a defendant charged with both misdemeanor and felony offenses; ~~and~~

(14) notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant under Article 18.02(10), Code of Criminal Procedure; and

(15) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) A magistrate does not have authority under Subsection (a)(14) to issue a subsequent search warrant under Article 18.02(10), Code of Criminal Procedure.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Castro moved to adopt the conference committee report on **HB 1722**.

The motion to adopt the conference committee report on **HB 1722** prevailed by (Record 1599): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Davis, Y.; Gonzalez Tourelles; King, S.; Paxton; Peña.

STATEMENT OF VOTE

When Record No. 1599 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

HB 2310 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Geren submitted the following conference committee report on **HB 2310**:

Austin, Texas, May 25, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2310** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Harris	Gutierrez
Fraser	Hamilton
Whitmire	Jones
Watson	Geren
Williams	

On the part of the senate

On the part of the house

HB 2310, A bill to be entitled An Act relating to the powers and duties of the Texas Department of Licensing and Regulation, including the power to issue emergency orders and temporary and emergency licenses.

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

SECTION 1. Section 51.001, Occupations Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Advisory board" means a board, committee, council, or other entity with multiple members that has as its primary function advising the commission or department.

(1-a) "Commission" means the Texas Commission of Licensing and Regulation.

SECTION 2. Subchapter D, Chapter 51, Occupations Code, is amended by adding Sections 51.209 and 51.210 to read as follows:

Sec. 51.209. ADVISORY BOARDS; REMOVAL OF ADVISORY BOARD MEMBER. (a) This section applies to any advisory board appointed to advise the commission or department regarding a program subject to regulation by the department.

(b) An advisory board member who was appointed by the presiding officer of the commission with the commission's approval may be removed from the advisory board by the presiding officer with the commission's approval on any of the following grounds:

(1) the member does not have at the time of becoming a member of the advisory board the qualifications required by the law or rule authorizing appointment of the member;

(2) the member does not maintain during service on the advisory board the qualifications required by the law or rule authorizing appointment of the member;

(3) the member cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(4) the member is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board; or

(5) the member is unfit to continue serving on the advisory board.

(c) The validity of an action of an advisory board is not affected by the fact that it is taken when a ground for removal of a member exists.

Sec. 51.210. METHOD OF MAKING PAYMENTS. (a) The commission may authorize payment of regulatory fees, fines, penalties, and charges for goods and services through:

(1) an electronic payment method; or

(2) a credit card issued by a financial institution chartered by a state or the United States or issued by a nationally recognized credit organization approved by the commission.

(b) A payment by a method under this section may be made in person, by telephone, or through the Internet.

(c) The commission may require a person who makes a payment to the department through an electronic payment method or credit card to pay a discount or service charge in an amount reasonable and necessary to reimburse the commission for the costs involved in processing the payment.

(d) The commission may adopt rules as necessary to implement this section.

SECTION 3. Section 51.310, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The executive director by rule shall prescribe notice procedures for proceedings under this subchapter that provide for notice by certified mail with electronic return receipt.

SECTION 4. Subchapter G, Chapter 51, Occupations Code, is amended by adding Sections 51.3511, 51.3512, and 51.3513 to read as follows:

Sec. 51.3511. ISSUANCE OF EMERGENCY ORDERS. (a) If the executive director determines that an emergency exists requiring immediate action to protect the public health and safety, the executive director may issue an emergency order to:

(1) suspend or revoke a license or other authorization issued under a program regulated by the department; or

(2) halt operation of an unsafe facility or unsafe equipment that is subject to regulation by the department.

(b) The executive director may issue an emergency order with or without notice and hearing as the executive director considers practicable under the circumstances.

(c) If an emergency order is issued under this section without a hearing, the executive director shall set the time and place for a hearing conducted by the State Office of Administrative Hearings to affirm, modify, or set aside the

emergency order not later than the 10th day after the date the order was issued. The order shall be affirmed to the extent that reasonable cause existed to issue the order.

(d) The commission by rule may prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing the commission to affirm, modify, or set aside a decision made by the State Office of Administrative Hearings under Subsection (c).

(e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Sec. 51.3512. SUBPOENAS. (a) The department may issue a subpoena as provided by this section.

(b) The department may request and, if necessary, compel by subpoena:

(1) the production for inspection and copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter, a law establishing a regulatory program administered by the department, or a rule adopted or order issued by the commission or executive director; and

(2) the attendance of a witness for examination under oath.

(c) A subpoena under this section may be issued throughout this state and may be served by any person designated by the commission or the executive director.

(d) The department, acting through the attorney general, may bring an action to enforce a subpoena issued under this section against a person who fails to comply with the subpoena.

(e) Venue for an action brought under this section is in a district court in:

(1) Travis County; or

(2) any county in which the department may hold a hearing.

(f) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Sec. 51.3513. CEASE AND DESIST ORDER. The executive director may issue a cease and desist order if the executive director determines that the action is necessary to prevent a violation of:

(1) this chapter;

(2) a law establishing a regulatory program administered by the department; or

(3) a rule adopted or order issued by the commission or the executive director.

SECTION 5. Section 51.352(a), Occupations Code, is amended to read as follows:

(a) The attorney general or the executive director may institute an action for injunctive relief to restrain a violation by and to collect a civil penalty from a person that appears to be in violation of or threatening to violate a law establishing a regulatory program administered by the department or a rule or order of the commission or executive director related to the regulatory program. A civil penalty assessed under this subsection may not exceed \$5,000 per day for each violation.

SECTION 6. The heading to Section 51.353, Occupations Code, is amended to read as follows:

Sec. 51.353. LICENSE DENIAL; ADMINISTRATIVE SANCTIONS.

SECTION 7. Section 51.353(a), Occupations Code, is amended to read as follows:

(a) The commission may deny, ~~shall~~ revoke, suspend, or refuse to renew a license or may ~~shall~~ reprimand a license holder for a violation of this chapter, a law establishing a regulatory program administered by the department, or a rule or order of the commission or the executive director.

SECTION 8. Section 51.354, Occupations Code, is amended by redesignating Subsection (d) as Subsection (b) and adding Subsection (c) to read as follows:

(b) ~~(d)~~ A proceeding under this chapter to deny, suspend, or revoke a license is considered to be a contested case under Chapter 2001, Government Code.

(c) The executive director by rule shall prescribe notice procedures for a contested case under this chapter that provide for notice by certified mail with electronic return receipt.

SECTION 9. Subchapter G, Chapter 51, Occupations Code, is amended by adding Sections 51.355 and 51.356 to read as follows:

Sec. 51.355. LICENSE ELIGIBILITY OF PERSON WHOSE LICENSE HAS BEEN REVOKED. A person whose license has been revoked by order of the commission or executive director is not eligible for a new license until the first anniversary of the date of the revocation.

Sec. 51.356. DEFERRED ADJUDICATION; LICENSE SUSPENSION, LICENSE REVOCATION, OR DENIAL OR REFUSAL TO RENEW LICENSE. (a) The commission may deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by the department if the commission determines that a deferred adjudication makes the person holding or seeking the license unfit for the license.

(b) In making a determination under Subsection (a), the commission shall consider the factors set forth in Sections 53.022 and 53.023 and the guidelines issued by the department under Section 53.025.

SECTION 10. Subchapter H, Chapter 51, Occupations Code, is amended by adding Sections 51.4011 and 51.4012 to read as follows:

Sec. 51.4011. INACTIVE STATUS. (a) The commission may adopt rules to allow a license holder to place a license issued by the department on inactive status by:

(1) submitting, on a form prescribed by the department, an application for inactive status to the department not later than the expiration date of the license; and

(2) paying the required fee.

(b) Except as provided by Subsection (f), a person whose license is on inactive status is not required to complete continuing education required under this chapter, a law establishing a program regulated by the department, or a rule adopted by the commission.

(c) A person whose license is on inactive status may reapply for inactive status before the expiration date of the license. The person must pay the required fee.

(d) A person whose license is on inactive status may not engage in any activity for which the license is required.

(e) A license holder may not employ a person for an activity for which a license is required if the person's license is on inactive status.

(f) A person whose license is on inactive status may return the license to active status by:

(1) applying to the department for active status on a form prescribed by the department;

(2) paying the required fee; and

(3) providing evidence satisfactory to the department that the person has completed the number of hours of continuing education that would otherwise have been required for a renewal of an active license for the preceding license period.

(g) The commission may set fees and adopt rules as necessary to implement this section.

Sec. 51.4012. LICENSE ELIGIBILITY REQUIREMENTS REGARDING APPLICANT'S BACKGROUND; DETERMINATION LETTER. (a) Notwithstanding any other law, the commission may determine that a person is not eligible for a license based on the person's criminal history or other information that indicates that the person lacks the honesty, trustworthiness, and integrity to hold a license issued by the department.

(b) Before applying for a license from the department, a person may request that the department issue a letter determining whether the person would be eligible for a license under Subsection (a) of this section, Section 51.356, or Chapter 53. To obtain a determination letter, a person must file a request on a form prescribed by the department and pay the required fee.

(c) Not later than the 30th day after the date the department makes its determination, the department shall issue the determination letter to the person.

(d) The department has the same powers to investigate a request filed under this section as the department has to investigate a person applying for a license.

(e) A determination letter issued under this section that is adverse to a person does not prevent the person from subsequently applying for a license.

(f) The department is not bound by its determination that the person would be eligible if, after the issuance of the determination letter, the department determines there has been a change in a person's circumstances or discovers a previously undiscovered fact.

(g) A determination under this section is not a contested case under Chapter 2001, Government Code.

SECTION 11. Section 51.402(c), Occupations Code, is amended to read as follows:

(c) The department may require a testing service to:

(1) notify a person of the results of the person's examination; or

(2) collect a fee for administering a license examination from a person taking the examination.

SECTION 12. Subchapter H, Chapter 51, Occupations Code, is amended by adding Sections 51.407 and 51.408 to read as follows:

Sec. 51.407. TEMPORARY LICENSE. (a) The commission by rule may provide for the issuance of a temporary license to an applicant who:

(1) submits to the executive director an application on a form prescribed by the executive director;

(2) meets preliminary qualifications established by commission rule;
and

(3) pays any required fees.

(b) A temporary license issued under this section expires on the 21st day after the date of issuance and may not be renewed.

(c) A temporary license holder is subject to:

(1) this chapter;

(2) any law applicable to the activity for which the license is required;

and

(3) any rule of the commission or the executive director applicable to the license.

Sec. 51.408. EMERGENCY LICENSE. (a) The executive director may issue an emergency license to a person who meets eligibility requirements provided by:

(1) a law establishing a regulatory program administered by the department; or

(2) a rule adopted to implement this section.

(b) An emergency license issued under this section expires on the date indicated by the executive director, but not later than the 90th day after the date the license is issued. If the governor declares an extended state of disaster under Section 418.014, Government Code, the executive director may extend the term of an emergency license to an expiration date after the 90th day after the date the license was issued.

(c) The emergency license holder may engage in the activities authorized by the type of license only:

(1) during a period in which a state of disaster has been declared and the following recovery period; and

(2) in an area designated as a disaster area under Chapter 418, Government Code.

SECTION 13. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Sections 51.4011 and 51.4012, Occupations Code, as added by this Act, take effect May 1, 2010.

Representative Geren moved to adopt the conference committee report on **HB 2310**.

The motion to adopt the conference committee report on **HB 2310** prevailed by (Record 1600): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Alonzo; Crownover; Davis, Y.; Marquez.

HB 3737 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Anchia submitted the following conference committee report on **HB 3737**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3737** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Davis	Anchia
Nelson	Elkins
Eltife	Rose
Uresti	Walle
Carona	

On the part of the senate On the part of the house

HB 3737, A bill to be entitled An Act relating to criminal history checks for employees of, and applicants for employment at, special care facilities.

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

SECTION 1. The heading to Chapter 250, Health and Safety Code, is amended to read as follows:

CHAPTER 250. NURSE AIDE REGISTRY AND CRIMINAL HISTORY CHECKS OF EMPLOYEES AND APPLICANTS FOR EMPLOYMENT IN CERTAIN FACILITIES SERVING THE ELDERLY, ~~OR~~ PERSONS WITH DISABILITIES, OR PERSONS WITH TERMINAL ILLNESSES

SECTION 2. Section 250.001(3), Health and Safety Code, is amended to read as follows:

(3) "Facility" means:

(A) a nursing home, custodial care home, or other institution licensed by the ~~[Texas]~~ Department of Aging and Disability ~~[Human]~~ Services under Chapter 242;

(B) an assisted living facility licensed by the ~~[Texas]~~ Department of Aging and Disability ~~[Human]~~ Services under Chapter 247;

(C) a home and community support services agency licensed under Chapter 142;

(D) an adult day care facility licensed by the ~~[Texas]~~ Department of Aging and Disability ~~[Human]~~ Services under Chapter 103, Human Resources Code;

(E) a facility for persons with mental retardation licensed under Chapter 252;

(F) an adult foster care provider that contracts with the ~~[Texas]~~ Department of Aging and Disability ~~[Human]~~ Services;

(G) a facility that provides mental health services and that is operated by or contracts with the ~~[Texas]~~ Department of State ~~[Mental]~~ Health Services ~~[and Mental Retardation]~~;

(H) a local mental health or mental retardation authority designated under Section 533.035; ~~or~~

(I) a person exempt from licensing under Section 142.003(a)(19);

or
(J) a special care facility licensed by the Department of State Health Services under Chapter 248.

SECTION 3. This Act takes effect September 1, 2009.

Representative Anchia moved to adopt the conference committee report on **HB 3737**.

The motion to adopt the conference committee report on **HB 3737** prevailed by (Record 1601): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero;

Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Hodge; Leibowitz; Moody.

HR 2975 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2975**, suspending the limitations on the conferees for **HB 1796**.

HB 764 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hartnett submitted the following conference committee report on **HB 764**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 764** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
Carona
Harris
Hinojosa
Watson

Hartnett
Hughes
Leibowitz

On the part of the senate

On the part of the house

HB 764, A bill to be entitled An Act relating to eligibility for assignment as a visiting judge.

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

SECTION 1. Section 25.0022(t), Government Code, is amended to read as follows:

(t) To be eligible for assignment under this section, a former or retired judge of a statutory probate court must:

- (1) not have been removed from office; ~~and~~
- (2) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that:
 - (A) the judge has not been publicly reprimanded or censured by the State Commission on Judicial Conduct; and
 - (B) the judge:
 - (i) did not resign or retire from office after the State Commission on Judicial Conduct notified the judge of the commencement of a full investigation into an allegation or appearance of misconduct or disability of the judge ~~[having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted]~~ as provided in Section 33.022 and before the final disposition of that investigation; or
 - (ii) if the judge did resign from office under circumstances described by Subparagraph (i), was not publicly reprimanded or censured as a result of the investigation;
 - (3) annually demonstrate that the judge has completed in the past state fiscal year the educational requirements for an active statutory probate court judge;
 - (4) have served as an active judge for at least 96 months in a district, statutory probate, statutory county, or appellate court; and
 - (5) have developed substantial experience in the judge's area of specialty ~~[the proceedings].~~

SECTION 2. (a) The change in law made by Chapter 315 (**HB 3306**), Acts of the 78th Legislature, Regular Session, 2003, to Section 74.055(c)(1), Government Code, does not apply to a person who:

- (1) was serving a term as an active judge described by Section 74.054(a)(1), Government Code, on August 31, 2003; and
- (2) on completion of that term, met the eligibility requirements, other than the requirement of Section 74.055(c)(6), Government Code, to be named on a list of retired and former judges under Section 74.055(c), Government Code, as that law existed on August 31, 2003.

(b) Section 74.055(c), Government Code, as it existed on August 31, 2003, is continued in effect for determining the eligibility of a person described by Subsection (a) of this section to be named on the list of retired and former judges subject to assignment.

SECTION 3. (a) The change in law made by this Act by amending Section 25.0022(t)(2), Government Code, and by adding Sections 25.0022(t)(4) and (5), Government Code, applies only to an assignment of a visiting judge appointed under Chapter 25, Government Code, made on or after September 1, 2009. An assignment made before September 1, 2009, is governed by Section 25.0022(t), Government Code, as it exists on the date of the assignment, and that law is continued in effect for that purpose.

(b) The change in law made by this Act by amending Section 25.0022(t)(2), Government Code, and by adding Sections 25.0022(t)(4) and (5), Government Code, does not apply to a person who immediately before the effective date of

this Act meets the eligibility requirements to be assigned by the presiding judge under Section 25.0022(h), Government Code, and the former law is continued in effect for determining that person's eligibility for that purpose.

(c) The change in law made by this Act by adding Section 25.0022(t)(3), Government Code, applies only to an assignment of a visiting judge appointed under Chapter 25, Government Code, made on or after September 1, 2010. Except as provided by Subsection (b) of this section, an assignment made before September 1, 2010, is governed by Section 25.0022(t), Government Code, as it exists on the date of the assignment, and that law is continued in effect for that purpose.

(d) Section 25.0022(t)(2)(A), Government Code, as added by this Act, applies only to a reprimand or censure issued by the State Commission on Judicial Conduct on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2009.

Representative Hartnett moved to adopt the conference committee report on **HB 764**.

The motion to adopt the conference committee report on **HB 764** prevailed by (Record 1602): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Burnam; Coleman; Dunnam; Gutierrez; King, S.

HB 1357 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Isett submitted the following conference committee report on **HB 1357**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1357** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell
Van de Putte
Uresti

Isett
Rios Ybarra
S. King
Laubenberg
McReynolds

On the part of the senate

On the part of the house

HB 1357, A bill to be entitled An Act relating to the regulation of freestanding emergency medical care facilities; providing an administrative penalty; creating an offense.

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

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 254 to read as follows:

CHAPTER 254. FREESTANDING EMERGENCY MEDICAL CARE
FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 254.001. DEFINITIONS. In this chapter:

- (1) "Department" means the Department of State Health Services.
(2) "Emergency care" has the meaning assigned by Sections 843.002 and 1301.155, Insurance Code.
(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
(4) "Facility" means a freestanding emergency medical care facility.
(5) "Freestanding emergency medical care facility" means a facility, structurally separate and distinct from a hospital that receives an individual and provides emergency care, as defined by Subsection (2).

[Section 254.002-254.050 reserved for expansion]

SUBCHAPTER B. LICENSING

Sec. 254.051. LICENSE REQUIRED. (a) Except as provided by Section 254.052, a person may not establish or operate a freestanding emergency medical care facility in this state without a license issued under this chapter.

(b) Except as provided by Section 254.052, a facility or person may not hold itself out to the public as a freestanding emergency medical care facility or use any similar term, as defined by department rule, that would give the impression that the facility or person is providing emergency care unless the facility or person holds a license issued under this chapter. The use of the term "emergency" or a similar term is also subject to Section 254.152.

(c) Each separate facility location must have a separate license.

(d) A license issued under this chapter is not transferable or assignable.

(e) The executive commissioner by rule shall establish a classification for a facility that is in continuous operation 24 hours per day and 7 days per week and a classification for a facility that is in operation 7 days per week and at least 12 hours per day.

(f) A facility that is not in continuous operation 24 hours per day and 7 days per week cannot be issued a license with a term that extends beyond August 31, 2013.

Sec. 254.052. EXEMPTIONS FROM LICENSING REQUIREMENT. The following facilities are not required to be licensed under this chapter:

(1) an office or clinic owned and operated by a manufacturing facility solely for the purposes of treating its employees and contractors;

(2) temporary emergency clinics in disaster areas;

(3) an office or clinic of a licensed physician, dentist, optometrist, or podiatrist;

(4) a licensed nursing home;

(5) a licensed hospital;

(6) a hospital that is owned and operated by this state;

(7) a facility located within or connected to a hospital described by Subsection (5) or (6);

(8) a facility that is owned or operated by a hospital described by Subsection (5) or (6) and is:

(A) surveyed as a service of the hospital by an organization that has been granted deeming authority as a national accreditation program for hospitals by the Centers for Medicare and Medicaid Services; or

(B) granted provider-based status by the Centers for Medicare and Medicaid Services; or

(9) a licensed ambulatory surgical center.

Sec. 254.053. LICENSE APPLICATION AND ISSUANCE. (a) An applicant for a license under this chapter must submit an application to the department on a form prescribed by the department.

(b) Each application must be accompanied by a nonrefundable license fee in an amount set by the executive commissioner.

(c) The application must contain evidence that there is at least one physician and one nurse on the staff of the facility who are licensed by the appropriate state licensing board.

(d) The application must contain evidence that the facility meets the minimum standards and requirements specified in Section 254.151.

(e) The department shall issue a license if, after inspection and investigation, it finds that the applicant and the facility meet the requirements of this chapter and the standards adopted under this chapter.

(f) The license fee must be paid annually on renewal of the license.

[Sections 254.054-254.100 reserved for expansion]

SUBCHAPTER C. EXECUTIVE COMMISSIONER AND DEPARTMENT
POWERS AND DUTIES

Sec. 254.101. ADOPTION OF RULES. The executive commissioner shall adopt rules necessary to implement this chapter, including requirements for the issuance, renewal, denial, suspension, and revocation of a license to operate a facility.

Sec. 254.102. FEES. The executive commissioner shall set fees imposed by this chapter in amounts reasonable and necessary to defray the cost of administering this chapter.

Sec. 254.103. INSPECTIONS. The department may inspect a facility at reasonable times as necessary to ensure compliance with this chapter.

Sec. 254.104. FREESTANDING EMERGENCY MEDICAL CARE FACILITY LICENSING FUND. All fees collected under this chapter shall be deposited in the state treasury to the credit of the freestanding emergency medical care facility licensing fund and may be appropriated to the department only to administer and enforce this chapter.

[Sections 254.105-254.150 reserved for expansion]

SUBCHAPTER D. REGULATION OF FACILITIES

Sec. 254.151. MINIMUM STANDARDS. (a) The executive commissioner shall adopt rules necessary to implement this chapter, including minimum standards for:

(1) the construction and design of the facility, including plumbing, heating, lighting, ventilation, and other design standards necessary to ensure the health and safety of patients;

(2) the number, qualifications, and organization of the professional staff and other personnel;

(3) the administration of the facility;

(4) the equipment essential to the health and welfare of the patients;

(5) the sanitary and hygienic conditions within the facility and its surroundings;

(6) the requirements for the contents, maintenance, and release of medical records;

(7) the minimal level of care and standards for denial of care;

(8) the provision of laboratory and radiological services;

(9) the distribution and administration of drugs and controlled substances;

(10) a quality assurance program for patient care;

(11) disclosure, if applicable, of the following:

(A) the name and social security number of the sole proprietor, if the facility is a sole proprietor;

(B) the name and social security number of each general partner who is an individual, if the facility is a partnership;

(C) the name and social security number of any individual who has an ownership interest of more than 25 percent in the corporation, if the facility is a corporation; and

(D) the name and license numbers of any physicians licensed by the Texas Medical Board who have a financial interest in the facility or any entity which has an ownership interest in the facility;

(12) transfer protocols for patients requiring advanced medical care at a hospital; and

(13) any other aspect of the operation of a facility that the executive commissioner considers necessary to protect the facility's patients and the public.

(b) In adopting the rules required under Subsection (a) concerning transfer protocols, the executive commissioner must consult with physicians who provide emergency care, medical consultant organizations, and organizations representing hospitals licensed in this state.

(c) The minimum standards under this section shall apply to facilities operating 24 hours a day and 7 days per week and facilities operating less than 24 hours a day and 7 days per week.

Sec. 254.152. FACILITIES NOT IN CONTINUOUS OPERATION. (a) A facility that is not in continuous operation shall display a clearly visible sign that:

(1) indicates whether the facility is open or closed;

(2) provides information regarding the facility's operating hours; and

(3) provides clear instructions directing a patient to an emergency room in a licensed hospital or a freestanding emergency room classified as a facility that is in continuous operation within 10 miles of the facility that is not in continuous operation.

(b) A facility that is not in continuous operation may not advertise, market, or otherwise promote the services provided by the facility using the term "emergency" or any similar term defined by department rule.

(c) Notwithstanding Subsection (b), a facility that is not in continuous operation is not required to comply with Subsection (b) until the earlier of the second anniversary of the date the facility is issued a license under this chapter or September 1, 2012. This subsection expires January 1, 2013.

(d) This section expires August 31, 2013.

Sec. 254.153. FACILITY CARE REQUIREMENTS. (a) A facility shall provide to each facility patient, without regard to the individual's ability to pay, an appropriate medical screening, examination, and stabilization within the facility's capability, including ancillary services routinely available to the facility, to determine whether an emergency medical condition exists and any necessary stabilizing treatment.

(b) Before a facility accepts any patient for treatment or diagnosis, the facility shall enter into a referral, transmission, or admission agreement with a hospital licensed in this state.

Sec. 254.154. COMPLAINTS. A person may file a complaint with the department against a facility licensed under this chapter.

[Sections 254.155-254.200 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT AND PENALTIES

Sec. 254.201. DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE. (a) The department may deny, suspend, or revoke a license for a violation of this chapter or a rule adopted under this chapter.

(b) The denial, suspension, or revocation of a license by the department and the appeal from that action are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

(c) If the department finds that a facility is in repeated noncompliance with this chapter or rules adopted under this chapter but that the noncompliance does not endanger public health and safety, the department may schedule the facility for probation rather than suspending or revoking the facility's license. The department shall provide notice to the facility of the probation and of the items of noncompliance not later than the 10th day before the date the probation period begins. The department shall designate a period of not less than 30 days during which the facility remains under probation. During the probation period, the facility must correct the items that were in noncompliance and report the corrections to the department for approval.

(d) The department may suspend or revoke the license of a facility that does not correct items that were in noncompliance or that does not comply with this chapter or the rules adopted under this chapter within the applicable probation period.

Sec. 254.202. EMERGENCY SUSPENSION. (a) The department may issue an emergency order to suspend a license issued under this chapter if the department has reasonable cause to believe that the conduct of a license holder creates an immediate danger to the public health and safety.

(b) An emergency suspension under this section is effective immediately without a hearing on notice to the license holder.

(c) On written request of the license holder, the department shall conduct a hearing not earlier than the 10th day or later than the 30th day after the date the hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded.

(d) A hearing and any appeal under this section are governed by the department's rules for a contested care hearing and Chapter 2001, Government Code.

Sec. 254.203. INJUNCTION. (a) The department may petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if the department finds that the violation creates an immediate threat to the health and safety of the patients of a facility.

(b) A district court, on petition of the department and on a finding by the court that a person is violating the standards or licensing requirements provided under this chapter, may by injunction:

(1) prohibit a person from continuing a violation of the standards or licensing requirements provided under this chapter;

(2) restrain or prevent the establishment or operation of a facility without a license issued under this chapter; or

(3) grant any other injunctive relief warranted by the facts.

(c) The attorney general shall institute and conduct a suit authorized by this section at the request of the department.

(d) Venue for a suit brought under this section is in the county in which the facility is located or in Travis County.

Sec. 254.204. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 254.051.

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

(c) Each day of a continuing violation constitutes a separate offense.

Sec. 254.205. IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter. A penalty collected under this section or Section 254.206 shall be deposited in the state treasury in the general revenue fund.

(b) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

(c) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(d) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

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

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(e) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(f) The notice under Subsection (e) must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

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

(g) Within 20 days after the date the person receives the notice under Subsection (e), the person in writing may:

(1) accept the determination and recommended penalty of the department; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner of state health services by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the commissioner of state health services shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner of state health services a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner of state health services by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(l) The notice of the order under Subsection (k) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 254.206. PAYMENT AND COLLECTION OF ADMINISTRATIVE PENALTY; JUDICIAL REVIEW. (a) Within 30 days after the date an order of the commissioner of state health services under Section 254.205(k) that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the executive commissioner by certified mail.

(c) If the commissioner of state health services receives a copy of an affidavit under Subsection (b)(2), the commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the

alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty.

(e) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(f) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

(g) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgement of the court becomes final. The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(h) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond. If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

SECTION 2. Section 843.002, Insurance Code, is amended by amending Subdivision (7) and adding Subdivision (9-a) to read as follows:

(7) "Emergency care" means health care services provided in a hospital emergency facility, freestanding emergency medical care facility, or comparable emergency facility to evaluate and stabilize medical conditions of a recent onset and severity, including severe pain, that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the individual's condition, sickness, or injury is of such a nature that failure to get immediate medical care could:

- (A) place the individual's health in serious jeopardy;
- (B) result in serious impairment to bodily functions;
- (C) result in serious dysfunction of a bodily organ or part;
- (D) result in serious disfigurement; or
- (E) for a pregnant woman, result in serious jeopardy to the health of the fetus.

(9-a) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

SECTION 3. Section 1271.155(b), Insurance Code, is amended to read as follows:

(b) A health care plan of a health maintenance organization must provide the following coverage of emergency care:

(1) a medical screening examination or other evaluation required by state or federal law necessary to determine whether an emergency medical condition exists shall be provided to covered enrollees in a hospital emergency facility or comparable facility;

(2) necessary emergency care shall be provided to covered enrollees, including the treatment and stabilization of an emergency medical condition; and

(3) services originated in a hospital emergency facility, freestanding emergency medical care facility, or comparable emergency facility following treatment or stabilization of an emergency medical condition shall be provided to covered enrollees as approved by the health maintenance organization, subject to Subsections (c) and (d).

SECTION 4. Section 1301.001, Insurance Code, is amended by adding Subdivision (12) to read as follows:

(12) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

SECTION 5. Section 1301.155, Insurance Code, is amended to read as follows:

Sec. 1301.155. EMERGENCY CARE. (a) In this section, "emergency care" means health care services provided in a hospital emergency facility, freestanding emergency medical care facility, or comparable emergency facility to evaluate and stabilize a medical condition of a recent onset and severity, including severe pain, that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the person's condition, sickness, or injury is of such a nature that failure to get immediate medical care could result in:

- (1) placing the person's health in serious jeopardy;
- (2) serious impairment to bodily functions;
- (3) serious dysfunction of a bodily organ or part;
- (4) serious disfigurement; or
- (5) in the case of a pregnant woman, serious jeopardy to the health of the fetus.

the fetus.

(b) If an insured cannot reasonably reach a preferred provider, an insurer shall provide reimbursement for the following emergency care services at the preferred level of benefits until the insured can reasonably be expected to transfer to a preferred provider:

(1) a medical screening examination or other evaluation required by state or federal law to be provided in the emergency facility of a hospital that is necessary to determine whether a medical emergency condition exists;

(2) necessary emergency care services, including the treatment and stabilization of an emergency medical condition; and

(3) services originating in a hospital emergency facility or freestanding emergency medical care facility following treatment or stabilization of an emergency medical condition.

SECTION 6. (a) Not later than September 1, 2010, a freestanding emergency medical care facility must obtain a license as required by Chapter 254, Health and Safety Code, as added by this Act.

(b) Not later than March 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules as required by Chapter 254, Health and Safety Code, as added by this Act.

(c) The changes in law made by Sections 3, 4, and 5 of this Act apply only to a health insurance policy or evidence of coverage delivered, issued for delivery, or renewed on or after March 1, 2010. A health insurance policy or evidence of coverage delivered, issued for delivery, or renewed before that date is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 7. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 2009.

(b) Sections 254.201, 254.202, 254.203, 254.205, and 254.206, Health and Safety Code, as added by this Act, and Sections 843.002, 1271.155, 1301.001, and 1301.155, Insurance Code, as amended by this Act, take effect March 1, 2010.

(c) Section 254.204, Health and Safety Code, as added by this Act, takes effect September 1, 2010.

Representative Isett moved to adopt the conference committee report on **HB 1357**.

The motion to adopt the conference committee report on **HB 1357** prevailed by (Record 1603): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Coleman; Dunnam; Eiland; Gutierrez.

HB 2854 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hughes submitted the following conference committee report on **HB 2854**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2854** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell
Hinojosa
Wentworth

Hughes
Anderson
Harper-Brown
Pickett

On the part of the senate

On the part of the house

HB 2854, A bill to be entitled An Act relating to license plates created by the Texas Department of Transportation for professional firefighters.

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

SECTION 1. Subchapter E, Chapter 504, Transportation Code, is amended by adding Section 504.414 to read as follows:

Sec. 504.414. PROFESSIONAL FIREFIGHTER PLATES. (a) The professional firefighter plate may be issued to qualified firefighters. The sponsor of the plate may nominate a state agency for receipt of funds under Section 504.801(e)(2)(A).

(b) After deduction of the department's administrative costs in accordance with Section 504.801, the remainder of the fees from the sale of professional firefighter plates shall be deposited to the credit of an account in the state treasury to be used by the nominated state agency for the purpose of making grants to support the activities of an organization of professional firefighters located in this state that provides emergency relief and college scholarship funds to the professional firefighters and their dependents.

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, 2009.

Representative Hughes moved to adopt the conference committee report on **HB 2854**.

The motion to adopt the conference committee report on **HB 2854** prevailed by (Record 1604): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Guillen; Menendez; Smith, W.

HB 4275 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Menendez submitted the following conference committee report on **HB 4275**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4275** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

West
Nichols
Shapleigh
Williams

Menendez
Thompson
Kent
Leibowitz
Bohac

On the part of the senate

On the part of the house

HB 4275, A bill to be entitled An Act relating to the application process and scoring for the low income housing tax credit program.

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

SECTION 1. Subchapter DD, Chapter 2306, Government Code, is amended by adding Section 2306.6736 to read as follows:

Sec. 2306.6736. LOW INCOME HOUSING TAX CREDITS FINANCED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009. (a) To the extent the department receives federal funds under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) or any subsequent law (including any extension or renewal thereof) that requires the department to award the federal funds in the same manner and subject to the same limitations as awards of housing tax credits, the following provisions shall apply.

(b) Any reference in this chapter to the administration of the housing tax credit program shall apply equally to the administration of such federal funds, except:

(1) the department may establish a separate application procedure for such funds, outside of the uniform application cycle referred to in Section 2306.1111 and the deadlines established in Section 2306.6724, and any reference herein to the application period shall refer to the period beginning on the date the department begins accepting applications for such funds and continuing until all such available funds are awarded;

(2) unless reauthorized, this section is repealed on August 31, 2011.

SECTION 2. Subchapter DD, Chapter 2306, Government Code, is amended by adding Section 2306.6737 to read as follows:

Sec. 2306.6737. ASSISTANCE FROM AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009. If allowed by federal law, the department shall, under any federally funded program resulting from the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), secure the interests of the state through bonds, an ownership interest in property, restrictive covenants filed in the real property records, and/or liens filed on a property for which the applicant has accepted funds until such a time as the department and the State of Texas do not have liability to repay or recapture such funds.

SECTION 3. It is the intent of the legislature that the passage by the 81st Legislature, Regular Session, 2009, of another bill that amends Chapter 2306, Government Code, and the amendments made by this Act shall be harmonized, if possible, as provided by Section 311.025(b), Government Code, so that effect may be given to each. If the amendments made by this Act to Chapter 2306, Government Code, and the amendments made to Chapter 2306, Government Code, by any other bill are irreconcilable, it is the intent of the legislature that this Act prevail, regardless of the relative dates of enactment of this Act and the other bill or bills, but only to the extent that any differences are irreconcilable.

SECTION 4. The changes in law made by this Act relating to the evaluation of applications for financial assistance administered by the Texas Department of Housing and Community Affairs apply only to an application submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Menendez moved to adopt the conference committee report on **HB 4275**.

The motion to adopt the conference committee report on **HB 4275** prevailed by (Record 1605): 94 Yeas, 47 Nays, 1 Present, not voting. (The vote was reconsidered later today, and the conference committee report on **HB 4275** was adopted by Record No. 1690.)

Yeas — Allen; Alonzo; Alvarado; Anchia; Bolton; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Corte; Crabb; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Keffer; Kent; King, T.; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Christian; Cook; Craddick; Creighton; Crownover; Darby; Elkins; Farrar; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Harper-Brown; Isett; Jackson; King, P.; King, S.; Kleinschmidt; Laubenberg; Lewis; Merritt; Miller, D.; Miller, S.; Morrison; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Truitt; Weber; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Hughes; Jones; Kolkhorst; Ritter.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1605. I intended to vote yes.

Aycock

I was shown voting yes on Record No. 1605. I intended to vote no.

Chisum

I was shown voting no on Record No. 1605. I intended to vote yes.

Darby

I was shown voting no on Record No. 1605. I intended to vote yes.

Harless

I was shown voting yes on Record No. 1605. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1605. I intended to vote no.

Keffer

I was shown voting no on Record No. 1605. I intended to vote yes.

S. King

When Record No. 1605 was taken, I was in the house but away from my desk. I would have voted no.

Kolkhorst

I was shown voting no on Record No. 1605. I intended to vote yes.

D. Miller

I was shown voting no on Record No. 1605. I intended to vote yes.

Patrick

SB 497 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hartnett submitted the conference committee report on **SB 497**.

Representative Hartnett moved to adopt the conference committee report on **SB 497**.

The motion to adopt the conference committee report on **SB 497** prevailed by (Record 1606): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Farabee; Isett; Riddle.

STATEMENTS OF VOTE

When Record No. 1606 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

When Record No. 1606 was taken, I was in the house but away from my desk. I would have voted yes.

Isett

SB 679 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the conference committee report on **SB 679**.

Representative Thompson moved to adopt the conference committee report on **SB 679**.

The motion to adopt the conference committee report on **SB 679** prevailed by (Record 1607): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Quintanilla; Ritter; Turner, C.

SB 956 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Branch submitted the conference committee report on **SB 956**.

Representative Branch moved to adopt the conference committee report on **SB 956**.

The motion to adopt the conference committee report on **SB 956** prevailed by (Record 1608): 112 Yeas, 24 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Bohac; Bolton; Branch; Button; Callegari; Castro; Chavez; Cohen; Coleman; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Fletcher; Flores; Frost; Gallego; Giddings; Gonzales; Guillen; Gutierrez; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Isett; Jackson; Jones; Kent; King, S.; King, T.; Kleinschmidt; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Miller, D.; Moody; Naishtat; Oliveira; Olivo; Ortiz; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Zerwas.

Nays — Anderson; Bonnen; Brown, B.; Brown, F.; Christian; Cook; Crabb; Elkins; Flynn; Gattis; Geren; Gonzalez Toureilles; Hughes; Merritt; Orr; Otto; Paxton; Ritter; Sheffield; Shelton; Smithee; Swinford; Truitt; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Burnam; Chisum; Farrar; Hamilton; Keffer; King, P.; Kolkhorst; Miller, S.; Morrison.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1608. I intended to vote no.

Hunter

When Record No. 1608 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

When Record No. 1608 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

I was shown voting yes on Record No. 1608. I intended to vote no.

Weber

SB 956 - JOINT SPONSORS ADDED

Representative Branch moved to suspend Rule 8, Section 5 of the House Rules to add Representatives Anchia, Giddings, Oliveira, and Crownover as joint sponsors to **SB 956**.

The motion prevailed.

HB 216 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Menendez submitted the following conference committee report on **HB 216**:

Austin, Texas, May 28, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 216** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapleigh

Menendez

Uresti

Rose

Nichols

Naishtat

Nelson

J. Davis

Wentworth

Hughes

On the part of the senate

On the part of the house

HB 216, A bill to be entitled An Act relating to the regulation of certain boarding home facilities and assisted living facilities; providing penalties.

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

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 254 to read as follows:

CHAPTER 254. BOARDING HOME FACILITIES

Sec. 254.001. DEFINITIONS. In this chapter:

(1) "Assistance with self-administering medication" means assisting a resident by reminding the resident to take medication, opening and removing medications from a container, or reminding the resident when a prescription medication needs to be refilled.

(2) "Boarding home facility" means an establishment that:

(A) furnishes, in one or more buildings, lodging to three or more persons with disabilities or elderly persons who are unrelated to the owner of the establishment by blood or marriage; and

(B) provides community meals, light housework, meal preparation, transportation, grocery shopping, money management, laundry services, or assistance with self-administration of medication but does not provide personal care services as defined by Section 247.002 to those persons.

(3) "Commission" means the Health and Human Services Commission.

(4) "Elderly person" has the meaning assigned by Section 48.002, Human Resources Code.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(6) "Person with a disability" means a disabled person as defined by Section 48.002, Human Resources Code.

(7) "Resident" means a person who is residing in a boarding home facility.

Sec. 254.002. EXEMPTIONS. This chapter does not apply to:

(1) a person that is required to be licensed under Chapter 142, 242, 246, 247, or 252;

(2) a person that is exempt from licensing under Section 142.003(a)(19), 242.003(3), or 247.004(4);

(3) a hotel as defined by Section 156.001, Tax Code;

(4) a retirement community;

(5) a monastery or convent;

(6) a child-care facility as defined by Section 42.002, Human Resources Code;

(7) a family violence shelter center as defined by Section 51.002, Human Resources Code; or

(8) a sorority or fraternity house or other dormitory associated with an institution of higher education.

Sec. 254.003. MODEL STANDARDS. The executive commissioner shall develop and publish in the Texas Register model standards for the operation of a boarding home facility relating to:

(1) the construction or remodeling of a boarding home facility, including plumbing, heating, lighting, ventilation, and other housing conditions, to ensure the residents' health, safety, comfort, and protection from fire hazard;

(2) sanitary and related conditions in a boarding home facility and its surroundings, including insect and rodent control, water supply, sewage disposal, food handling, and general hygiene to ensure the residents' health, safety, and comfort;

(3) the reporting and investigation of injuries, incidents, and unusual accidents and the establishment of other policies and procedures necessary to ensure resident health and safety;

(4) assistance with self-administering medication;

(5) requirements for in-service education of the facility's staff;

(6) criminal history record checks; and

(7) assessment and periodic monitoring to ensure that a resident:

(A) does not require the boarding home facility to provide personal care, nursing, or other services not listed in Section 254.001(2); and

(B) is capable of self-administering medication or is aware of what the resident's medications look like and knows when the medications should be taken but requires assistance with self-administering medication.

Sec. 254.004. LOCAL REGULATION. A county or municipality may require a person to obtain a permit from the county or municipality to operate a boarding home facility within the county's or municipality's jurisdiction. A county or municipality may adopt the standards developed by the executive commissioner under Section 254.003 and require a boarding home facility that holds a permit issued by the county or municipality to comply with the adopted standards.

Sec. 254.005. PERMIT PROCEDURES; FEES; FINES. (a) A county or municipality that requires a person to obtain a boarding home facility permit as authorized by Section 254.004 may establish procedures for the submission of a boarding home facility permit application and for the issuance, denial, renewal, suspension, and revocation of the permit.

(b) A county or municipality that requires a person to obtain a boarding home facility permit as authorized under Section 254.004 may set reasonable fees for issuance of the permit, renewal of the permit, and inspections and may impose fines for noncompliance with the county or municipal boarding home facility regulations. The fees collected and fines imposed by the county or municipality must be used to administer the county or municipal permitting program or for other purposes directly related to providing boarding home facility or other assisted living services to elderly persons and persons with disabilities.

(c) A person required to obtain a boarding home facility permit from a county or municipality as authorized under Section 254.004 shall pay any fees required or fines imposed by the county or municipality.

Sec. 254.006. POSTING. A boarding home facility that holds a permit issued by a county or municipality shall prominently and conspicuously post for display in a public area of the boarding home facility that is readily available to residents, the operator, employees, and visitors:

(1) the permit issued by a county or municipality;
(2) a sign prescribed by the county or municipality that issued the permit that specifies how complaints may be registered with the county or municipality;

(3) a notice in a form prescribed by the county or municipality that issued the permit stating that inspection and related reports are available at the boarding home facility for public inspection and providing a telephone number that may be used to obtain information concerning the boarding home facility;

(4) a concise summary of the most recent inspection report relating to the boarding home facility; and

(5) a notice in a form prescribed by the county or municipality that issued the permit that lists the name, location, and contact information for:

(A) the closest local public health services agency in the proximity of the boarding home facility; and

(B) a local organization or entity that represents, advocates, or serves elderly persons or persons with disabilities, including any related toll-free contact information for reporting emergencies to the organization or entity.

Sec. 254.007. INSPECTIONS. (a) A county or municipality may conduct any inspection, survey, or investigation that it considers necessary and may enter the premises of a boarding home facility at reasonable times to make an inspection, survey, or investigation.

(b) A county or municipality is entitled to access to books, records, and other documents maintained by or on behalf of a boarding home facility to the extent necessary to enforce the standards adopted by the county or municipality.

Sec. 254.008. INTERLOCAL COOPERATION. Two or more counties or municipalities may cooperate and contract with each other for the purpose of inspecting and permitting boarding home facilities.

Sec. 254.009. REPORTING AND INVESTIGATION OF ABUSE, NEGLECT, OR EXPLOITATION. (a) A person, including an owner, operator, or employee of a boarding home facility that holds a permit issued by a county or municipality, who has cause to believe that a resident who is an elderly person or a person with a disability is being or has been abused, neglected, or exploited shall report the abuse, neglect, or exploitation to the Department of Family and Protective Services for investigation by that agency. The Department of Family and Protective Services shall investigate the allegation of abuse, neglect, or exploitation as authorized and in the manner provided by Chapter 48, Human Resources Code.

(b) Each boarding home facility that holds a permit issued by a county or municipality shall require each employee of the boarding home facility, as a condition of employment with the boarding home facility, to sign a statement that the employee acknowledges that the employee may be criminally liable under Section 48.052, Human Resources Code, for failure to report abuse, neglect, or exploitation.

(c) An owner, operator, or employee of a boarding home facility that holds a permit issued by a county or municipality may not retaliate against an employee of the facility who in good faith makes a complaint to the office of the inspector general of the Health and Human Services Commission, cooperates with the office of the inspector general in an investigation, or reports abuse, neglect, or exploitation of a resident to the Department of Family and Protective Services.

Sec. 254.010. ANNUAL REPORT TO COMMISSION; LEGISLATIVE REPORT. (a) Not later than September 30 of each year following the establishment of a county or municipal permitting requirement under this chapter, each county or municipality that requires a person to obtain a boarding home facility permit under Section 254.004 shall submit to the commission a report. The report must include:

(1) the total number of:

(A) boarding home facilities permitted during the preceding state fiscal year;

(B) boarding home facility applications denied permitting, including a summary of cause for denial; and

(C) boarding home facility permits active on August 31 of the preceding state fiscal year;

(2) the total number of residents reported housed in each boarding home facility reported;

(3) the total number of inspections conducted at each boarding home facility by the county or municipality that requires the permit; and

(4) the total number of permits revoked or suspended as a result of an inspection described by Subdivision (3) and a summary of the outcome for the residents displaced by revocation or suspension of a permit.

(b) The commission shall establish and maintain a standardized compilation of information reported under this section and provide to the legislature a report of this information not later than January 1 of each odd-numbered year.

Sec. 254.011. EXCLUSION PROHIBITED. If an entity meets the requirements established by a county or municipality under this chapter, the entity may not be excluded from a residential area by zoning ordinances or similar regulations.

SECTION 2. Sections 247.002(1), (2), (4), (5), and (7), Health and Safety Code, are amended to read as follows:

(1) "Assisted living facility" means an establishment that:

(A) furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment; ~~and~~

(B) provides:

(i) personal care services; or

(ii) administration of medication by a person licensed or otherwise authorized in this state to administer the medication; and

(C) may provide assistance with or supervision of the administration of medication.

(2) "Board" means the executive commissioner of the Health and [Texas Board of] Human Services Commission.

(4) "Department" means the ~~[Texas]~~ Department of Aging and Disability [Human] Services.

(5) "Personal care services" means:

(A) assistance with feeding [meals], dressing, moving [movement], bathing, or other personal needs or maintenance; or

~~(B) [the administration of medication by a person licensed to administer medication or the assistance with or supervision of medication; or~~

~~(C)~~ general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in an assisted living facility or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person.

(7) "Commissioner" means the commissioner of the department [human services].

SECTION 3. Section 247.004, Health and Safety Code, is amended to read as follows:

Sec. 247.004. EXEMPTIONS. This chapter does not apply to:

(1) a boarding home facility as defined by Section 254.001 [~~that has rooms for rent and that may offer community meals, light housework, meal preparation, transportation, grocery shopping, money management, or laundry services but that does not provide personal care services~~];

(2) an establishment conducted by or for the adherents of the Church of Christ, Scientist, for the purpose of providing facilities for the care or treatment of the sick who depend exclusively on prayer or spiritual means for healing without the use of any drug or material remedy if the establishment complies with local safety, sanitary, and quarantine ordinances and regulations;

(3) a facility conducted by or for the adherents of a qualified religious society classified as a tax-exempt organization under an Internal Revenue Service group exemption ruling for the purpose of providing personal care services without charge solely for the society's professed members or ministers in retirement, if the facility complies with local safety, sanitation, and quarantine ordinances and regulations; or

(4) a facility that provides personal care services only to persons enrolled in a program that is funded in whole or in part by the department [~~Texas Department of Mental Health and Mental Retardation~~] and that is monitored by the department [~~Texas Department of Mental Health and Mental Retardation~~] or its designated local mental retardation authority in accordance with standards set by the department [~~Texas Department of Mental Health and Mental Retardation~~].

SECTION 4. Section 247.030, Health and Safety Code, is repealed.

SECTION 5. It is the intent of the legislature that the passage by the 81st Legislature, Regular Session, 2009, of another bill that amends Subtitle B, Title 4, Health and Safety Code, and Chapter 247, Health and Safety Code, and the amendments made by this Act shall be harmonized, if possible, as provided by Section 311.025(b), Government Code, so that effect may be given to each. If the amendments made by this Act to Subtitle B, Title 4, Health and Safety Code, and Chapter 247, Health and Safety Code, and the amendments made to Subtitle B, Title 4, Health and Safety Code, and Chapter 247, Health and Safety Code, by any other bill are irreconcilable, it is the intent of the legislature that this Act prevail, regardless of the relative dates of enactment of this Act and the other bill or bills, but only to the extent that differences are irreconcilable.

SECTION 6. Not later than September 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt the model standards required by Section 254.003, Health and Safety Code, as added by this Act.

SECTION 7. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Sections 254.004 through 254.008, Health and Safety Code, as added by this Act, and Section 4 of this Act take effect September 1, 2010.

Representative Menendez moved to adopt the conference committee report on **HB 216**.

The motion to adopt the conference committee report on **HB 216** prevailed by (Record 1609): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Peña; Thompson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1609. I intended to vote no.

Christian

When Record No. 1609 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

HB 882 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rodriguez submitted the following conference committee report on **HB 882**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 882** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Eltife
Seliger

Rodriguez
Bolton

Watson
 Van de Putte
 On the part of the senate

Harless
 Hughes
 On the part of the house

HB 882, A bill to be entitled An Act relating to a residential tenant's rights and remedies after certain unlawful conduct.

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

SECTION 1. Section 92.008(b), Property Code, is amended to read as follows:

(b) ~~A [Except as provided by Subsections (c) and (d), a]~~ landlord may not interrupt or cause the interruption of water, wastewater, gas, or electric service furnished to a tenant by the landlord as an incident of the tenancy or by other agreement unless the interruption results from bona fide repairs, construction, or an emergency.

SECTION 2. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.0091 to read as follows:

Sec. 92.0091. RESIDENTIAL TENANT'S RIGHT OF RESTORATION AFTER UNLAWFUL UTILITY DISCONNECTION. (a) If a landlord has interrupted utility service in violation of Section 92.008, the tenant may obtain relief as provided by this section.

(b) The tenant must file with the justice court in the precinct in which the rental premises are located a sworn complaint specifying the facts of the alleged unlawful utility disconnection by the landlord or the landlord's agent. The tenant must also state orally under oath to the justice the facts of the alleged unlawful utility disconnection.

(c) If the tenant has complied with Subsection (b) and if the justice reasonably believes an unlawful utility disconnection has likely occurred, the justice may issue, ex parte, a writ of restoration of utility service that entitles the tenant to immediate and temporary restoration of the disconnected utility service, pending a final hearing on the tenant's sworn complaint.

(d) The writ of restoration of utility service must be served on either the landlord or the landlord's management company, on-premises manager, or rent collector in the same manner as a writ of possession in a forcible detainer suit.

(e) The landlord is entitled to a hearing on the tenant's sworn complaint for restoration of utility service. The writ of restoration of utility service must notify the landlord of the right to a hearing. The hearing shall be held not earlier than the first day and not later than the seventh day after the date the landlord requests a hearing.

(f) If the landlord fails to request a hearing on the tenant's sworn complaint for restoration of utility service before the eighth day after the date of service of the writ of restoration of utility service on the landlord under Subsection (d), a judgment for court costs may be rendered against the landlord.

(g) A party may appeal from the court's judgment at the hearing on the sworn complaint for restoration of utility service in the same manner as a party may appeal a judgment in a forcible detainer suit.

(h) If a writ of possession is issued, it supersedes a writ of restoration of utility service.

(i) If the landlord or the person on whom a writ of restoration of utility service is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the landlord or the person on whom the writ was served under Section 21.002, Government Code. If the writ is disobeyed, the tenant or the tenant's attorney may file in the court in which the action is pending an affidavit stating the name of the person who has disobeyed the writ and describing the acts or omissions constituting the disobedience. On receipt of an affidavit, the justice shall issue a show cause order, directing the person to appear on a designated date and show cause why the person should not be adjudged in contempt of court. If the justice finds, after considering the evidence at the hearing, that the person has directly or indirectly disobeyed the writ, the justice may commit the person to jail without bail until the person purges the contempt action or omission in a manner and form as the justice may direct. If the person disobeyed the writ before receiving the show cause order but has complied with the writ after receiving the order, the justice may find the person in contempt and assess punishment under Section 21.002(c), Government Code.

(j) If a tenant in bad faith files a sworn complaint for restoration of utility service resulting in a writ being served on the landlord or landlord's agent, the landlord may in a separate cause of action recover from the tenant an amount equal to actual damages, one month's rent or \$500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the landlord is liable to the tenant.

(k) The fee for filing a sworn complaint for restoration of utility service is the same as that for filing a civil action in justice court. The fee for service of a writ of restoration of utility service is the same as that for service of a writ of possession. The fee for service of a show cause order is the same as that for service of a civil citation. The justice may defer payment of the tenant's filing fees and service costs for the sworn complaint for restoration of utility service and writ of restoration of utility service. Court costs may be waived only if the tenant executes a pauper's affidavit.

SECTION 3. Sections 92.008(c), (d), and (e), Property Code, are repealed.

SECTION 4. Section 92.0091, Property Code, as added by this Act, applies only to a violation of Section 92.008, Property Code, as amended by this Act, on or after the effective date of this Act or a violation of Section 92.008, Property Code, as that section existed immediately before the effective date of this Act, that continues on or after the effective date of this Act. A violation that occurred before the effective date of this Act and does not continue after the effective date of this Act is covered by the law in effect at the time the violation occurred, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect January 1, 2010.

Representative Rodriguez moved to adopt the conference committee report on **HB 882**.

The motion to adopt the conference committee report on **HB 882** prevailed by (Record 1610): 140 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Laubenberg.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Deshotel; Harper-Brown; Peña; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1610. I intended to vote no.

Christian

When Record No. 1610 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

HB 1801 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bohac submitted the following conference committee report on **HB 1801**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1801** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro

Bohac

Duncan
 Hinojosa
 Seliger
 Williams
 On the part of the senate

Martinez Fischer
 Castro
 Patrick
 Oliveira
 On the part of the house

HB 1801, A bill to be entitled An Act relating to exemptions from the sales tax for a limited period for certain backpacks and school supplies specified by the Streamlined Sales and Use Tax Agreement.

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

SECTION 1. Section 151.327, Tax Code, is amended to read as follows:

Sec. 151.327. SCHOOL SUPPLIES AND SCHOOL BACKPACKS BEFORE START OF SCHOOL. (a) In this section:

(1) "Backpack" means a messenger bag, book bag, or a pack with straps that a person wears on the person's back, including a backpack with wheels if the backpack can also be worn on the back. The term does not include an item that is commonly considered luggage, a briefcase, an athletic bag, a duffle bag, a gym bag, a computer bag, a purse, or a framed backpack.

(2) "School supply" has the meaning assigned by the Streamlined Sales and Use Tax Agreement adopted November 12, 2002, including all amendments made to the agreement on or before December 14, 2006.

(a-1) The sale or storage, use, or other consumption of a school supply or a school backpack is exempted from the taxes imposed by this chapter if the school supply or backpack is purchased:

(1) for use by a student in a public or private elementary or secondary school;

(2) during the period described by Section 151.326(a)(2); and

(3) for a sales price of less than \$100.

(b) A retailer is not required to obtain an exemption certificate stating that school supplies or school backpacks are purchased for use by students in a public or private elementary or secondary school unless the school supplies or backpacks are purchased in a quantity that indicates that the school supplies or backpacks are not purchased for use by students in a public or private elementary or secondary school.

SECTION 2. The change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 3. This Act takes effect July 1, 2009, 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 effect on that date, this Act takes effect October 1, 2009.

Representative Bohac moved to adopt the conference committee report on **HB 1801**.

The motion to adopt the conference committee report on **HB 1801** prevailed by (Record 1611): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Deshotel; Flores; McClendon; Peña.

STATEMENT OF VOTE

When Record No. 1611 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

SB 2274 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Chisum submitted the conference committee report on **SB 2274**.

Representative Chisum moved to adopt the conference committee report on **SB 2274**.

The motion to adopt the conference committee report on **SB 2274** prevailed by (Record 1612): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg;

Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Callegari; Driver.

STATEMENT OF VOTE

When Record No. 1612 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

HB 148 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative T. Smith submitted the following conference committee report on **HB 148**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 148** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
Watson
Hinojosa
Duncan

T. Smith
Branch
Hartnett
Hunter
Leibowitz

On the part of the senate

On the part of the house

HB 148, A bill to be entitled An Act relating to the prosecution of the offense of barratry and solicitation of professional employment.

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

SECTION 1. Section 38.12(d), Penal Code, is amended to read as follows:

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

(1) is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state; and

(2) with the intent to obtain professional employment for the person ~~[himself]~~ or for another, provides ~~[sends]~~ or knowingly permits to be provided ~~[sent]~~ to an individual who has not sought the person's employment, legal representation, advice, or care a written communication or a solicitation, including a solicitation in person or by telephone, that:

(A) concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication or solicitation is provided ~~[addressed]~~ or a relative of that person and that was provided ~~[mailed]~~ before the 31st day after the date on which the accident or disaster occurred;

(B) concerns a specific matter and relates to legal representation and the person knows or reasonably should know that the person to whom the communication or solicitation is directed is represented by a lawyer in the matter;

(C) concerns an arrest of or issuance of a summons to the person to whom the communication or solicitation is provided ~~[addressed]~~ or a relative of that person and that was provided ~~[mailed]~~ before the 31st day after the date on which the arrest or issuance of the summons occurred;

(D) concerns a lawsuit of any kind, including an action for divorce, in which the person to whom the communication or solicitation is provided ~~[addressed]~~ is a defendant or a relative of that person, unless the lawsuit in which the person is named as a defendant has been on file for more than 31 days before the date on which the communication or solicitation was provided ~~[mailed]~~;

(E) is provided ~~[sent]~~ or permitted to be provided ~~[sent]~~ by a person who knows or reasonably should know that the injured person or relative of the injured person has indicated a desire not to be contacted by or receive communications or solicitations concerning employment;

(F) involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence; or

(G) contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

Representative T. Smith moved to adopt the conference committee report on **HB 148**.

The motion to adopt the conference committee report on **HB 148** prevailed by (Record 1613): 142 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel;

Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Menendez.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Herrero; King, T.

HB 148 - STATEMENT BY REPRESENTATIVE T. SMITH

On **HB 148**, a conference committee was requested and the Senator Duncan amendment was stripped off solely because the parliamentarian had advised me that the amendment was not germane and would, therefore, place the original bill in jeopardy.

HB 1030 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Callegari submitted the following conference committee report on **HB 1030**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1030** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis
Patrick
Shapleigh

Callegari
Bohac
S. Turner
Fletcher

On the part of the senate

On the part of the house

HB 1030, A bill to be entitled An Act relating to the protest or appeal of ad valorem tax matter.

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

SECTION 1. Section 1.111, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) An individual exempt from registration as a property tax consultant under Section 1152.002, Occupations Code, who files a protest with the appraisal review board on behalf of the property owner is entitled to receive all notices from the appraisal district regarding the property subject to the protest until the authority is revoked by the property owner as provided by this section.

SECTION 2. Section 6.41, Tax Code, is amended by amending Subsections (d), (e), and (f) and adding Subsections (d-1), (d-2), (d-3), (d-4), (d-5), (d-6), (d-7), (d-8), and (d-9) to read as follows:

(d) Except as provided by Subsection (d-1), members [Members] of the board are appointed by resolution of a majority of the appraisal district board of directors. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(d-1) In a county with a population of 3.3 million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more the members of the board are appointed by the local administrative district judge in the county in which the appraisal district is established.

(d-2) A local administrative district judge making appointments under Subsection (d-1) may make such appointments directly or may, by written order, appoint from three to five persons to perform the duties of appraisal review board commissioner. If the local administrative district judge chooses to appoint appraisal review board commissioners, each commissioner shall possess the same qualifications as those required of an appraisal review board member.

(d-3) The local administrative judge making appointments under Subsection (d-1) shall cause the proper officer to notify such appointees of such appointment, and when and where they are to appear.

(d-4) If appraisal review board commissioners are appointed under Subsection (d-2), they shall meet as directed by the local administrative district judge in order to complete their duties.

(d-5) The appraisal district of the county shall provide to the local administrative district judge, or to the appraisal review board commissioners, as the case may be, the number of appraisal review board positions that require appointment and shall provide whatever reasonable assistance is requested by the local administrative district judge or the commissioners.

(d-6) An appraisal review board commissioner is not disqualified from serving as a member of the appraisal review board.

(d-7) If appraisal review board commissioners are appointed under this section, the commissioners shall return a list of proposed appraisal review board members to the local administrative district judge at a time directed by such local administrative judge, but in no event later than January 1 of each year. Such list shall be composed of no less than five (5) names in excess of the number of appraisal review board positions to be filled by the local administrative district judge. The local administrative judge may accept the proposed names, or reject

the proposed list and return the proposed list to the commissioners upon which the commissioners shall propose a revised list until the local administrative judge accepts the list.

(d-8) Any appraisal review board commissioners appointed pursuant to this section shall hold office for a term of one year beginning January 1. A commissioner may be appointed to successive terms at the discretion of the local administrative district judge.

(d-9) Upon selection of the individuals who are to serve as members of the appraisal review board, the local administrative district judge shall enter an appropriate order designating such members and setting each member's respective term of office, as provided elsewhere in this section.

(e) Members of the board hold office for terms of two years beginning January 1. The appraisal district board of directors by resolution shall provide for staggered terms, so that the terms of as close to one-half of the members as possible expire each year. In making the initial or subsequent appointments, the board of directors or the local administrative district judge or the judge's designee shall designate those members who serve terms of one year as needed to comply with this subsection.

(f) A member of the board may be removed from the board by a majority vote of the appraisal district board of directors, or by the local administrative district judge or the judge's designee, as applicable, that appointed the member. Grounds for removal are:

(1) a violation of Section 6.412, 6.413, 41.66(f), or 41.69; or

(2) good cause relating to the attendance of members at called meetings of the board as established by written policy adopted by a majority of the appraisal district board of directors.

SECTION 3. Subchapter C, Chapter 41, Tax Code, is amended by adding Section 41.415 to read as follows:

Sec. 41.415. ELECTRONIC FILING OF NOTICE OF PROTEST. (a) This section applies only to an appraisal district established for a county having a population of 500,000 or more.

(b) The appraisal district shall implement a system that allows the owner of a property that for the current tax year has been granted a residence homestead exemption under Section 11.13, in connection with the property, to electronically:

(1) file a notice of protest under Section 41.41(a)(1) or (2) with the appraisal review board;

(2) receive and review comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing before the board;

(3) receive, as applicable:

(A) a settlement offer from the district to correct the appraisal records by changing the market value and, if applicable, the appraised value of the property to the value as redetermined by the district; or

(B) a notice from the district that a settlement offer will not be made; and

(4) accept or reject a settlement offer received from the appraisal district under Subdivision (3)(A).

(c) With each notice sent under Section 25.19 to an eligible property owner, the chief appraiser shall include information about the system required by this section, including instructions for accessing and using the system.

(d) A notice of protest filed electronically under this section must include, at a minimum:

(1) a statement as to whether the protest is brought under Section 41.41(a)(1) or under Section 41.41(a)(2);

(2) a statement of the property owner's good faith estimate of the value of the property; and

(3) an electronic mail address that the district may use to communicate electronically with the property owner in connection with the protest.

(e) If the property owner accepts a settlement offer made by the appraisal district, the chief appraiser shall enter the settlement in the appraisal records as an agreement made under Section 1.111(e).

(f) If the property owner rejects a settlement offer, the appraisal review board shall hear and determine the property owner's protest in the manner otherwise provided by this subchapter and Subchapter D.

(g) An appraisal district is not required to make the system required by this section available to an owner of a residence homestead located in an area in which the chief appraiser determines that the factors affecting the market value of real property are unusually complex or to an owner who has designated an agent to represent the owner in a protest as provided by Section 1.111.

(h) An electronic mail address provided by a property owner to an appraisal district under Subsection (d)(3) is confidential and may not be disclosed by the district.

SECTION 4. Section 41.45, Tax Code, is amended by amending Subsection (e) and adding Subsections (e-1) and (e-2) to read as follows:

(e) On request made to the appraisal review board before the date of the hearing, a property owner who has not designated an agent under Section 1.111 to represent the owner at the hearing is entitled to one postponement of the hearing to a later date without showing cause. In addition and without limitation as to the number of postponements, the board shall postpone the hearing to a later date if the property owner or the owner's agent at any time shows good [reasonable] cause for the postponement or if the chief appraiser consents to the postponement. The hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought unless the date and time of the hearing as postponed are agreed to by the chairman of the appraisal review board or the chairman's representative, the property owner, and the chief appraiser. A request by a property owner for a postponement under this subsection may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the appraisal review board, a panel of the board, or the chairman of the board. The chairman or the chairman's representative may take action on [grant, but may not deny] a postponement under this subsection without the necessity of action by the full board if the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the board. The granting by the

appraisal review board, the chairman, or the chairman's representative of a postponement under this subsection does not require the delivery of additional written notice to the property owner.

(e-1) A property owner who has not designated an agent under Section 1.111 to represent the owner at the hearing and who fails to appear at the hearing is entitled to a new hearing if the property owner files, not later than the fourth day after the date the hearing occurred, a written statement with the appraisal review board showing good cause for the failure to appear and requesting a new hearing.

(e-2) For purposes of Subsections (e) and (e-1), "good cause" means a reason that includes an error or mistake that:

(1) was not intentional or the result of conscious indifference; and
(2) will not cause undue delay or other injury to the person authorized to extend the deadline or grant a rescheduling.

SECTION 5. Section 42.29(a), Tax Code, is amended to read as follows:

(a) A property owner who prevails in an appeal to the court under Section 42.25 or 42.26 or in an appeal to the court of a determination of an appraisal review board on a motion filed under Section 25.25 may be awarded reasonable attorney's fees. The amount of the award may not exceed the greater of:

(1) \$15,000; or
(2) 20 percent of the total amount by which the property owner's tax liability is reduced as a result of the appeal.

SECTION 6. (a) As soon as practicable on or after January 1, 2010, the local administrative district judge or the judge's designee in each county with a population of 3.3 million or more and in each county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more, in the manner provided by Section 6.41, Tax Code, as amended by this Act, shall appoint the members of the appraisal review board for the appraisal district established in the county. In making the initial appointments, the judge or judge's designee shall designate those members who serve terms of one year as necessary to comply with Section 6.41(e), Tax Code, as amended by this Act.

(b) The changes made to Section 6.41, Tax Code, as amended by this Act, apply only to the appointment of appraisal review board members in a county with a population of 3.3 million or more and in a county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more to terms beginning on or after January 1, 2010. This Act does not affect the term of an appraisal review board member serving in such a county on December 31, 2009, if the member was appointed before the effective date of this Act to a term that began prior to December 31, 2009, and expires December 31, 2010.

SECTION 7. Section 41.415, Tax Code, as added by this Act, applies only to a tax year that begins on or after the effective date of this Act.

SECTION 8. Section 41.45, Tax Code, as amended by this Act, applies only to a postponement of a hearing that is requested on or after the effective date of this Act. A postponement of a hearing that is requested before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 9. The change in law made by this Act to Section 42.29, Tax Code, applies only to an appeal under Chapter 42, Tax Code, of a determination of an appraisal review board that is filed on or after the effective date of this Act. An appeal under Chapter 42, Tax Code, of a determination of an appraisal review board that was filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and the former law is continued in effect for that purpose.

SECTION 10. (a) Except as provided by Subsections (b) and (c), this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

(b) Section 6.41, Tax Code, as amended by this Act, takes effect January 1, 2010.

(c) Section 41.415, Tax Code, as added by this Act, takes effect January 1, 2010.

Representative Callegari moved to adopt the conference committee report on **HB 1030**.

The motion to adopt the conference committee report on **HB 1030** prevailed by (Record 1614): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

HR 2928 - ADOPTED
(by Rodriguez)

The following privileged resolution was laid before the house:

HR 2928

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1263** (certain mass transit entities) to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1) and (4), are suspended to permit the committee to change text not in disagreement and add text not included in either version of the bill under Section 7 of the bill in amended Section 451.5021(b)(2), Transportation Code, to read as follows:

(2) two members, one who must be and one who may be an elected official, [two members] appointed by the governing body of the principal municipality;

Explanation: The change is necessary because of the two members of the board appointed by the municipality, only one must be an elected official.

(2) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to change and omit text not in disagreement in Section 7 of the bill in amended Sections 451.5021(b)(3) and (b)(4), Transportation Code, so that the text reads as follows:

(3) one member appointed by the commissioners court of the principal county;

(4) one member appointed by the commissioners court of the county, excluding the principal county, that has the largest population of the counties in the authority [a panel composed of the mayors of all the municipalities in the authority located in the principal county of the authority, excluding the mayor of the principal municipality]; [and]

Explanation: The alteration of text is necessary because the members under these subdivisions will not be jointly appointed.

(3) House Rule 13, Sections 9(a)(1) and (4), are suspended to permit the committee to change text not in disagreement and add text not included in either version of the bill in Section 7 of the bill in the introduction of amended Section 451.5021(d), Transportation Code, so that it reads as follows:

(d) A person appointed under Subsection (b)(1), (2) [(b)(2), (3), (4)], or (5), except as provided by Subsection (b)(2):

Explanation: The new text is needed to refer to the exception to this subsection under Subsection (b)(2).

(4) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to change and omit text not in disagreement in Section 7 of the bill, in added Sections 451.5021(d-2) and (d-3), Transportation Code, so that the text reads as follows:

(d-2) A person appointed under Subsection (b)(3) must:

(1) have the person's principal place of occupation or employment in the portion of the authority's service area that is located in the principal county;
or

(2) be a qualified voter of the principal county.

(d-3) A person appointed under Subsection (b)(4) must:

(1) have the person's principal place of occupation or employment in the portion of the authority's service area that is located in the county, other than the principal county, that has the largest population of the counties in the authority; or

(2) be a qualified voter of the county, other than the principal county, that has the largest population of the counties in the authority.

Explanation: The changes delete text that was in error or that is not necessary because of the change from joint appointments under Subsections (b)(3) and (b)(4).

HR 2928 was adopted by (Record 1615): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Alvarado; England; Laubenberg; McClendon.

STATEMENT OF VOTE

When Record No. 1615 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

SB 1263 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rodriguez submitted the conference committee report on **SB 1263**.

Representative Rodriguez moved to adopt the conference committee report on **SB 1263**.

The motion to adopt the conference committee report on **SB 1263** prevailed by (Record 1616): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Bohac; Eiland.

ADDRESS BY REPRESENTATIVE BURNAM ON A MATTER OF PERSONAL PRIVILEGE

The chair recognized Representative Burnam who addressed the house on a matter of personal privilege, speaking as follows:

Many of you know that I filed a resolution on Presidents' Day to set up the mechanism for impeachment of Judge Sharon Keller, the presiding judge of the Texas Court of Criminal Appeals. It was, in large measure the same resolution that was distributed to your desk earlier today. The initial resolution was given a hearing in the Judiciary and Civil Jurisprudence Committee in late April. Several of you have asked whether or not you would have the opportunity to vote for the resolution. Many members of the media have asked about it.

As many of you know the State Commission on Judicial Conduct and the Texas Ethics Commission are both currently investigating Judge Keller on separate matters. Some of you have suggested that those two commissions should be permitted to complete their investigations before action is taken in the legislature.

The Texas State Constitution and multiple precedents clearly permit the legislature to pursue impeachment concurrent with other proceedings against a judge. Despite the readily apparent jurisdiction of the legislature in this matter, I have decided to accommodate the concerns that some of you have expressed and not exercise my right, a right that any member has, to bypass the committee and

bring this resolution forward to the house as a whole. I would be remiss if I did not remind all of you that the unique power of the legislature to impeach carries with it the responsibility to use that power when appropriate. I would be equally remiss if I failed to call to your attention the great damage that Judge Keller has done to public confidence in our justice system. I will not read the resolution in its entirety, but I will highlight some of its contents:

Judge Sharon Keller, presiding judge of the Texas Court of Criminal Appeals, demonstrated gross neglect of duty and conducted her official duties with willful disregard for human life in connection with her actions on the evening of September 25, 2007, including her irresponsible refusal to abide by the established practice of the Texas Court of Criminal Appeals in order to receive the appeal of Michael Wayne Richard, conduct which resulted in Mr. Richard's deprivation of life without due process of law and in the embarrassment of the State of Texas in a manner that casts severe doubt on the impartiality of the Texas Court of Criminal Appeals and the entire criminal justice system of this state.

Judge Keller made this critical decision concerning Michael Richard's appeal: having a manifested bias against criminal defendants such as Mr. Richard, thereby violating the requirements of Canon 2 of the Texas Code of Judicial Conduct that a judge shall act at all times in a manner that "promotes public confidence in the impartiality of the judiciary" and shall avoid "impropriety and the appearance of impropriety in all the judge's activities;" and the injunction of Canon 3 that a judge "shall not, in the performance of judicial duties, by words or conduct manifest bias" or decide matters "in which disqualification is required or recusal is appropriate."

The United States Supreme Court has recognized that a judge's lack of impartiality may violate due process of law and applicable rules of judicial conduct, and has also found that as a matter of constitutional due process as guaranteed by the Fifth and Fourteenth Amendments, a fair trial requires an absence of bias and "justice must satisfy the appearance of justice," indicating that a judge must recuse himself or herself for bias or even the appearance of bias.

Judge Keller's declaration that she is a "prosecution-oriented person," which was further explained as meaning "seeing legal issues from the perspective of the state instead of the perspective of the defense," is the kind of announcement described by the supreme court as declaring partiality on the part of a judge and thus requiring recusal. Judge Keller's manifest lack of impartiality required her to recuse herself from participating in any decision in Michael Richard's case, and, members, in all probability all other cases before the court.

Judge Keller's refusal to recuse herself in these circumstances manifests either willful misconduct of a duty of which she was aware, or incompetence for having been ignorant of an ethical and legal obligation of which she should have been aware.

Judge Keller has evidenced her "pro-prosecution" bias in numerous other criminal cases, including the case of defendant Roy Criner in which Judge Keller voted to refuse to reverse a conviction even after DNA evidence had confirmed that the appellant was factually innocent of the crime. And members, incredibly

enough Judge Keller explained that refusal, by saying, "We can't give new trials to everyone who establishes, after conviction, that they might be innocent." Members, her comment was, "We can't give new trials to everyone who establishes, after conviction, that they might be innocent." Fortunately, some time later, then-Governor Bush pardoned Criner.

Additionally, Judge Keller has misrepresented the facts regarding her personal finances in her official, sworn financial statements required under Texas law, and has further misrepresented the facts about her financial status in her attempts to procure money from the State of Texas for legal fees in connection with the proceedings brought against her by the State Commission on Judicial Conduct. This violates the bedrock ethical standard applicable to all attorneys and judges by, in the words of Rule 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct, engaging "in conduct involving dishonesty, fraud, deceit, or misrepresentation" and, in the words of the Texas Code of Judicial Conduct, failing to avoid "impropriety and the appearance of impropriety." Texas judges are required to file annual, sworn financial disclosure statements with the Texas Ethics Commission, and in her financial disclosure statements, Judge Keller repeatedly omitted reference to her ownership interest in several residential and commercial properties of substantial value.

According to the Texas Supreme Court "the primary purpose of an impeachment is to protect the state." As the sole body capable of impeachment, the legislature has a duty to exercise its power to protect the state. We cannot indefinitely abdicate that responsibility. If the Commission on Judicial Conduct or the State Ethics Commission does not take action to remove Judge Keller from office, and if I am privileged next session to represent the people of District 90 in this body, I may feel compelled to bring this resolution to the floor. It is my profound hope that that will be unnecessary. I hope and pray that the people of Texas will not have to wait another two years to see Judge Keller removed from office.

REMARKS ORDERED PRINTED

Representative Veasey moved to print remarks by Representative Burnam.

The motion prevailed.

HOUSE AT EASE

At 5:09 p.m., the speaker announced that the house would stand at ease.

The speaker called the house to order at 5:57 p.m.

COMMITTEE GRANTED PERMISSION TO MEET

Representative McClendon requested permission for the Committee on Rules and Resolutions to meet while the house is in session, at 6:05 p.m. today, in 2W.6, for a formal meeting, to consider the calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, 6:05 p.m. today, 2W.6, for a formal meeting, to consider the calendar.

(McClendon in the chair)

HR 2960 - ADOPTED
(by Otto)

The following privileged resolution was laid before the house:

HR 2960

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 3612**, relating to the creation of a pilot program that allows taxpayer appeals from certain appraisal review board determinations in certain counties to be heard by the State Office of Administrative Hearings, to consider and take action on the following matter:

House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to change and omit text which is not in disagreement in SECTION 1 of the bill, in added Section 2003.902, Government Code, by deleting Dallas County, which was included in both the house and senate versions of the bill, from the counties in which the pilot program created by the bill is to be implemented, so that the section reads as follows:

Sec. 2003.902. COUNTIES INCLUDED. The pilot program shall be implemented in Bexar, Cameron, El Paso, Harris, Tarrant, and Travis Counties for a three-year period beginning with the ad valorem tax year that begins January 1, 2010.

Explanation: This change is necessary to remove Dallas County from the counties in which the pilot program created by **HB 3612** is to be implemented.

HR 2960 was adopted by (Record 1617): 121 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Burnam; Pierson.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Branch; Cohen; Coleman; Corte; Dunnam; Edwards; Farrar; Gallego; Gutierrez; Hamilton; Hernandez; Hilderbran; Howard, C.; Lucio; Martinez Fischer; Olivo; Pitts; Quintanilla; Smith, T.; Smith, W.; Veasey.

STATEMENTS OF VOTE

When Record No. 1617 was taken, I was temporarily out of the house chamber. I would have voted yes.

Olivo

I was shown voting no on Record No. 1617. I intended to vote yes.

Pierson

When Record No. 1617 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

HB 3612 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Otto submitted the following conference committee report on **HB 3612**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3612** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Williams
West
Hinojosa
Carona
Patrick

Otto
Gattis
Quintanilla
Darby
Heflin

On the part of the senate

On the part of the house

HB 3612, A bill to be entitled An Act relating to the creation of a pilot program that allows taxpayer appeals from certain appraisal review board determinations in certain counties to be heard by the State Office of Administrative Hearings.

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

SECTION 1. Chapter 2003, Government Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. PILOT PROGRAM: APPEALS FROM APPRAISAL
REVIEW BOARD DETERMINATIONS IN CERTAIN COUNTIES

Sec. 2003.901. PILOT PROGRAM. (a) Not later than January 1, 2010, the office shall develop a pilot program under which, as an alternative to filing an appeal under Section 42.01, Tax Code, a property owner may appeal to the office an appraisal review board order determining a protest concerning the appraised or market value of property brought under Section 41.41(a)(1) or (2), Tax Code, if the appraised or market value, as applicable, of the property that was the subject of the protest, as determined by the board order, is more than \$1 million.

(b) The pilot program shall be developed and implemented in conformance with the provisions of this subchapter.

(c) So as to expeditiously determine the appeals filed with the office using resources available to the office, the office is not required to determine more than 3,000 appeals filed under this subchapter. The office may develop a formula to establish the number of appeals that may be filed in each county included in the pilot program based on the total number of lawsuits filed in a county to which this subchapter applies as a percentage of the total number of lawsuits filed in all of those counties.

Sec. 2003.902. COUNTIES INCLUDED. The pilot program shall be implemented in Bexar, Cameron, El Paso, Harris, Tarrant, and Travis Counties for a three-year period beginning with the ad valorem tax year that begins January 1, 2010.

Sec. 2003.903. RULES. (a) The office has rulemaking authority to implement this subchapter.

(b) The office has specific rulemaking authority to implement those rules necessary to expeditiously determine appeals to the office, based on the number of appeals filed and the resources available to the office.

(c) The office may adopt rules that include the procedural provisions of Chapter 41, Tax Code, applicable to a hearing before an appraisal review board.

Sec. 2003.904. APPLICABILITY TO REAL AND PERSONAL PROPERTY. The pilot program must be applicable to a determination of the appraised or market value made by an appraisal review board in connection with real or personal property, other than industrial property or minerals.

Sec. 2003.905. EDUCATION AND TRAINING OF ADMINISTRATIVE LAW JUDGES. (a) An administrative law judge assigned to hear an appeal brought under this subchapter must have knowledge of:

(1) each of the appraisal methods a chief appraiser may use to determine the appraised value or the market value of property under Chapter 23, Tax Code; and

(2) the proper method for determining an appeal of a protest, including a protest brought on the ground of unequal appraisal.

(b) An administrative law judge is entitled to attend one or more training and education courses under Sections 5.04 and 5.041, Tax Code, to receive a copy of the materials used in a course, or both, without charge.

Sec. 2003.906. NOTICE OF APPEAL TO OFFICE. (a) To appeal an appraisal review board order to the office under this subchapter, a property owner must file with the chief appraiser of the appraisal district not later than the 30th day after the date the property owner receives notice of the order:

(1) a completed notice of appeal to the office in the form prescribed by Section 2003.907; and

(2) a filing fee in the amount of \$300, made payable to the office.

(b) As soon as practicable after receipt of a notice of appeal, the chief appraiser for the appraisal district shall:

(1) indicate, where appropriate, those entries in the records that are subject to the appeal;

(2) submit the notice of appeal and filing fee to the office; and

(3) request the appointment of a qualified administrative law judge to hear the appeal.

Sec. 2003.907. CONTENTS OF NOTICE OF APPEAL. The chief administrative law judge by rule shall prescribe the form of a notice of appeal under this subchapter. The form must require the property owner to provide:

(1) a copy of the order of the appraisal review board;

(2) a brief statement that explains the basis for the property owner's appeal of the order; and

(3) a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal.

Sec. 2003.908. NOTICE TO PROPERTY OWNERS. An appraisal review board of an appraisal district established in a county listed in Section 2003.902 of this code that delivers notice of issuance of an order described by Section 2003.901 of this code pertaining to property described by Section 2003.904 of this code and a copy of the order to a property owner as required by Section 41.47, Tax Code, shall include with the notice and copy:

(1) a notice of the property owner's rights under this subchapter; and

(2) a copy of the notice of appeal prescribed by Section 2003.907.

Sec. 2003.909. DESIGNATION OF ADMINISTRATIVE LAW JUDGE. (a) As soon as practicable after the office receives a notice of appeal and the filing fee, the office shall designate an administrative law judge to hear the appeal.

(b) As soon as practicable after the administrative law judge is designated, the administrative law judge shall set the date, time, and place of the hearing on the appeal.

(c) The hearing must be held in a building or facility that is owned or partly or entirely leased by the office and located in the county in which the applicable appraisal district is established, except that if the office does not own or lease a building or facility in the county, the hearing may be held in any public or privately owned building or facility in that county, preferably a building or facility in which the office regularly conducts business. The hearing may not be held in a building or facility that is owned, leased, or under the control of the appraisal district.

Sec. 2003.910. SCOPE OF APPEAL; HEARING. (a) An appeal is by trial de novo. The administrative law judge may not admit into evidence the fact of previous action by the appraisal review board, except as otherwise provided by this subchapter.

(b) Chapter 2001 and the Texas Rules of Evidence do not apply to a hearing under this subchapter. Prehearing discovery is limited to the exchange of documents the parties will rely on during the hearing. Any expert witness testimony must be reduced to writing and included in the exchange of documents.

(c) Any relevant evidence is admissible, subject to the imposition of reasonable time limits and the parties' compliance with reasonable procedural requirements imposed by the administrative law judge, including a schedule for the prehearing exchange of documents to be relied on.

(d) An administrative law judge may consider factors such as the hearsay nature of testimony, the qualifications of witnesses, and other restrictions on the admissibility of evidence under the Texas Rules of Evidence in assessing the weight to be given to the evidence admitted.

Sec. 2003.911. REPRESENTATION OF PARTIES. (a) A property owner may be represented at the hearing by:

(1) the property owner;

(2) an attorney who is licensed in this state;

(3) a certified public accountant;

(4) a registered property tax consultant; or

(5) any other person who is not otherwise prohibited from appearing in a hearing held by the office.

(b) The appraisal district may be represented by the chief appraiser or a person designated by the chief appraiser.

(c) An authorized representative of a party may appear at the hearing to offer evidence, argument, or both, in the same manner as provided by Section 41.45, Tax Code.

Sec. 2003.912. DETERMINATION OF ADMINISTRATIVE LAW JUDGE. (a) As soon as practicable, but not later than the 30th day after the date the hearing is concluded, the administrative law judge shall issue a determination and send a copy to the property owner and the chief appraiser.

(b) The determination:

(1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;

(2) must contain a brief analysis of the administrative law judge's rationale for and set out the key findings in support of the determination but is not required to contain a detailed discussion of the evidence admitted or the contentions of the parties;

(3) may include any remedy or relief a court may order under Chapter 42, Tax Code, in an appeal relating to the appraised or market value of property, other than an award of attorney's fees under Section 42.29, Tax Code; and

(4) shall specify whether the appraisal district or the property owner is required to pay the costs of the hearing and the amount of those costs.

(c) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for the hearing submitted by the property owner than the value determined by the appraisal review board:

(1) the office, on receipt of a copy of the determination, shall refund the property owner's filing fee;

(2) the appraisal district, on receipt of a copy of the determination, shall pay the costs of the appeal as specified in the determination; and

(3) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination.

(d) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the property owner's request for a hearing than the value determined by the appraisal review board:

(1) the office, on receipt of a copy of the determination, shall retain the property owner's filing fee;

(2) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination if the value as determined by the administrative law judge is less than the value as determined by the appraisal review board; and

(3) the property owner shall pay the difference between the costs of the appeal as specified in the determination and the property owner's filing fee.

(e) Notwithstanding Subsection (a), the office by rule may implement a process under which:

(1) the administrative law judge issues a proposal for determination to the parties;

(2) the parties are given a reasonable period in which to make written objections to the proposal; and

(3) the administrative law judge is authorized to take into account those written objections before issuing a final determination.

Sec. 2003.913. PAYMENT OF TAXES PENDING APPEAL. (a) The pendency of an appeal to the office does not affect the delinquency date for the taxes on the property subject to the appeal. A property owner who appeals an appraisal review board order to the office shall pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. If the final determination of the appeal decreases the property owner's tax liability to an amount less than the amount of taxes paid, each taxing unit shall refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

(b) A property owner may not appeal to the office if the taxes on the property subject to the appeal are delinquent. An administrative law judge who determines that the taxes on the property subject to an appeal are delinquent shall dismiss the pending appeal with prejudice. If an appeal is dismissed under this subsection, the office shall retain the property owner's filing fee.

Sec. 2003.914. EFFECT ON RIGHT TO JUDICIAL APPEAL. An appeal to the office under this subchapter is an election of remedies and an alternative to bringing an appeal under Section 42.01, Tax Code.

Sec. 2003.915. REPORT TO LEGISLATURE. Not later than January 1, 2013, the office and the chief appraisers of the appraisal districts established in the counties in which the pilot program is implemented shall submit a report to the legislature that includes:

- (1) the number of appeals for property in each appraisal district;
- (2) the number of appeals that were settled before being heard by an administrative law judge;
- (3) the number of appeals brought on the ground of excessive appraisal;
- (4) the number of appeals brought on the ground of unequal appraisal;
- (5) the number of judicial appeals of an administrative law judge's determination for each appraisal district; and
- (6) any recommendations for future legislative action that the office or the chief appraisers consider appropriate.

Sec. 2003.916. EXPIRATION. This subchapter expires January 1, 2013.

SECTION 2. This Act applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 3. This Act takes effect January 1, 2010.

(Speaker in the chair)

Representative Otto moved to adopt the conference committee report on **HB 3612**.

The motion to adopt the conference committee report on **HB 3612** prevailed by (Record 1618): 135 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle;

Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Coleman; Corte; Farrar; Hilderbran; Howard, C.; King, S.; Martinez; Veasey.

HR 2992 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2992**, suspending the limitations on the conferees for **SB 78**.

HR 2995 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2995**, suspending the limitations on the conferees for **HB 469**.

HB 2647 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kent submitted the following conference committee report on **HB 2647**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2647** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell
Eltife
West
Gallegos

Kent
Vaught
Button
Miklos
Driver

On the part of the senate

On the part of the house

HB 2647, A bill to be entitled An Act relating to the quasi-judicial enforcement of certain health and safety ordinances.

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

SECTION 1. Section 54.040(a), Local Government Code, is amended to read as follows:

(a) An order issued under Section 54.036, including any civil penalties assessed under Section 54.036(5), is enforceable in the same manner as provided in Sections 214.001(k), (m), (n), and (o). An abstract of judgment shall be ordered ~~issued~~ against all parties found to be the owners of the subject property or in possession of that property.

SECTION 2. This Act takes effect September 1, 2009.

Representative Kent moved to adopt the conference committee report on **HB 2647**.

The motion to adopt the conference committee report on **HB 2647** prevailed by (Record 1619): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycocock; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Berman; Burnam; Coleman; Dunnam; Gutierrez; Martinez Fischer; Menendez; Veasey.

HB 2730 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kolkhorst submitted the following conference committee report on **HB 2730**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2730** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa
 Hegar
 Carona
 Whitmire
 Nelson

Kolkhorst
 Burnam
 Driver
 Merritt

On the part of the senate

On the part of the house

Representative Kolkhorst moved to adopt the conference committee report on **HB 2730**.

The motion to adopt the conference committee report on **HB 2730** prevailed by (Record 1620): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Coleman; Gallego; Isett; Martinez; Veasey.

HB 2730 - RULES SUSPENDED

Representative Kolkhorst moved to suspend Rule 2, Section 2(a)(1) in order to not print the text of the conference committee report on **HB 2730** in the journal.

The motion prevailed.

HB 2917 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McReynolds submitted the following conference committee report on **HB 2917**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2917** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro	McReynolds
Carona	Hopson
Fraser	Kolkhorst
Huffman	Truitt
Nelson	

On the part of the senate

On the part of the house

HB 2917, A bill to be entitled An Act relating to authorizing the Department of State Health Services to obtain criminal history record information for certain applicants for employment.

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

SECTION 1. Section 411.110, Government Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (f) to read as follows:

(a) The Department of State Health Services is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person who is:

(A) an applicant for a license or certificate under the Emergency Medical Services Act (Chapter 773, Health and Safety Code);

(B) an owner or manager of an applicant for an emergency medical services provider license under that Act; or

(C) the holder of a license or certificate under that Act;

(2) an applicant for a license or a license holder under Subchapter N, Chapter 431, Health and Safety Code; ~~or~~

(3) an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455, Occupations Code;

(4) an applicant for employment at or current employee of:

(A) the Texas Center for Infectious Disease; or

(B) the South Texas Health Care System; or

(5) an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with:

(A) the vital statistics unit of the Department of State Health Services; or

(B) the Council on Sex Offender Treatment or other division or component of the Department of State Health Services that monitors sexually violent predators as described by Section 841.003(a), Health and Safety Code.

(c) After an entity is licensed or certified, the Department of State Health Services shall destroy the criminal history record information that relates to that entity. The Department of State Health Services shall destroy the criminal history record information that relates to:

(1) an applicant for employment after that applicant is employed or, for an applicant who is not employed, after the check of the criminal history record information on that applicant is completed; or

(2) an employee or contractor after the check of the criminal history record information on that employee or contractor is completed.

(d) The Department of State Health Services shall destroy criminal history record information that relates to an applicant who ~~that~~ is not certified or employed, as applicable.

(f) The Department of State Health Services may not consider offenses for which points are assessed under Section 708.052, Transportation Code, to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained under this section.

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, 2009.

Representative McReynolds moved to adopt the conference committee report on **HB 2917**.

The motion to adopt the conference committee report on **HB 2917** prevailed by (Record 1621): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez Fischer; McCall; McReynolds; Menendez; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond;

Riddle; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Flores; Flynn; Martinez; McClendon; Merritt; Miller, S.; Rios Ybarra; Thibaut.

HB 548 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pickett submitted the following conference committee report on **HB 548**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 548** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona	Pickett
Davis	Guillen
Nichols	Merritt
Watson	Callegari
On the part of the senate	On the part of the house

HB 548, A bill to be entitled An Act relating to the impoundment of certain motor vehicles involved in the commission of the offense of racing on a highway.

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

SECTION 1. Section 545.420, Transportation Code, is amended by adding Subsection (i) to read as follows:

(i) This subsection applies only to a motor vehicle used in the commission of an offense under this section that results in an accident with property damage or personal injury. A peace officer shall require the vehicle to be taken to the nearest licensed vehicle storage facility unless the vehicle is seized as evidence, in which case the vehicle may be taken to a storage facility as designated by the peace officer involved. Notwithstanding Article 18.23, Code of Criminal Procedure, the owner of a motor vehicle that is removed or stored under this subsection is liable for all removal and storage fees incurred and is not entitled to take possession of the vehicle until those fees are paid.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that

purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 3. This Act takes effect September 1, 2009.

Representative Pickett moved to adopt the conference committee report on **HB 548**.

The motion to adopt the conference committee report on **HB 548** prevailed by (Record 1622): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Coleman; Dunnam; Flynn; Hodge; Merritt.

HR 3047 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 3047**, suspending the limitations on the conferees for **HB 3**.

HR 2951 - ADOPTED

(by Herrero)

The following privileged resolution was laid before the house:

HR 2951

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the

conference committee appointed to resolve the differences on **HB 1506** (the imposition of conditions on certain defendants charged with an offense involving family violence) to consider and take action on the following matter:

House Rule 13, Sections 9(a)(2), (3), and (4), are suspended to permit the committee to omit Subsection (h), Article 17.49, Code of Criminal Procedure, as added by the senate and house versions of the bill, and to add new Subsections (h) and (i), Article 17.49, Code of Criminal Procedure, to read as follows:

(h) If the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay costs under Subsection (b)(2) or (3) in an amount that is less than the full amount of the costs associated with operating the global positioning monitoring system in relation to the defendant or providing the victim with an electronic receptor device.

(i) If an indigent defendant pays to an entity that operates a global positioning monitoring system the partial amount ordered by a magistrate under Subsection (h), the entity shall accept the partial amount as payment in full. The county in which the magistrate who enters an order under Subsection (h) is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent defendant.

Explanation: This change is necessary to remove a provision allowing an indigent defendant to perform community supervision in lieu of paying certain costs and to add provisions to allow a magistrate, without obligating the county to pay any of the costs, to require an indigent defendant to pay less than the full costs associated with operating a global positioning monitoring system in relation to the defendant or with providing an electronic receptor device to the victim of the offense committed by the defendant.

HR 2951 was adopted by (Record 1623): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — England; Flores; Flynn; Martinez; McReynolds; Olivo.

STATEMENT OF VOTE

When Record No. 1623 was taken, I was temporarily out of the house chamber. I would have voted yes.

Olivo

HB 1506 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Herrero submitted the following conference committee report on **HB 1506**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1506** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa
Seliger
West
Whitmire

Herrero
Gallego
Pierson
Gattis
Otto

On the part of the senate

On the part of the house

HB 1506, A bill to be entitled An Act relating to the imposition of conditions on certain defendants charged with an offense involving family violence.

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

SECTION 1. Article 17.292, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) In addition to the conditions described by Subsection (c), the magistrate in the order for emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant's participation in a global positioning monitoring system or allowing participation in the system by an alleged victim or other person protected under the order.

SECTION 2. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.49 to read as follows:

Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE. (a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1) refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(2) carry or wear a global positioning monitoring system device and, except as provided by Subsection (h), pay the costs associated with operating that system in relation to the defendant; or

(3) except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), pay the costs associated with providing the victim with an electronic receptor device that:

(A) is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1).

(c) Before imposing a condition described by Subsection (b)(1), a magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by Subsection (b)(1), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(d) Before imposing a condition described by Subsection (b)(3), a magistrate must provide to an alleged victim information regarding:

(1) the victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) the manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

(4) any sanctions that the court may impose on the defendant for violating a condition of bond imposed under this article;

(5) the procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;

(6) community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and

(7) the fact that the victim's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(e) In addition to the information described by Subsection (d), a magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this article the name and telephone number of an appropriate person employed by a local law enforcement agency whom the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this article.

(f) In determining whether to order a defendant's participation in a global positioning monitoring system under this article, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(g) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this article.

(h) If the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay costs under Subsection (b)(2) or (3) in an amount that is less than the full amount of the costs associated with operating the global positioning monitoring system in relation to the defendant or providing the victim with an electronic receptor device.

(i) If an indigent defendant pays to an entity that operates a global positioning monitoring system the partial amount ordered by a magistrate under Subsection (h), the entity shall accept the partial amount as payment in full. The county in which the magistrate who enters an order under Subsection (h) is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent defendant.

(j) A magistrate that imposes a condition described by Subsection (b)(1) or (2) shall order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this article.

(k) A magistrate that imposes a condition described by Subsection (b) may only allow or require the defendant to execute or be released under a type of bond that is authorized by this chapter.

(l) This article does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

SECTION 3. Articles 17.292(c-1) and 17.49, Code of Criminal Procedure, as added by this Act, apply only to a defendant released on bond, or to an order for emergency protection issued, in connection with an offense committed on or after the effective date of this Act. A defendant released on bond, or an order for emergency protection issued, in connection with an offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

Representative Herrero moved to adopt the conference committee report on **HB 1506**.

The motion to adopt the conference committee report on **HB 1506** prevailed by (Record 1624): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — England.

HB 2086 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Moody submitted the following conference committee report on **HB 2086**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2086** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Whitmire
Seliger
Carona
Ellis
Ogden

Moody
Gallego
Miklos
Riddle
Fletcher

On the part of the senate

On the part of the house

HB 2086, A bill to be entitled An Act relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses, including engaging in organized criminal activity, and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity; providing penalties.

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

SECTION 1. Section 71.02(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

- (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
- (7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;
- (8) any felony offense under Chapter 32;
- (9) any offense under Chapter 36;
- (10) any offense under Chapter 34 or 35;
- (11) any offense under Section 37.11(a);
- (12) any offense under Chapter 20A; ~~or~~
- (13) any offense under Section 37.10; or
- (14) any offense under Section 38.06, 38.07, 38.09, or 38.11.

SECTION 2. Section 15.031(e), Penal Code, is amended to read as follows:

(e) An offense under this section is one category lower than the solicited offense, except that an offense under this section is the same category as the solicited offense if it is shown on the trial of the offense that the actor:

- (1) was at the time of the offense 17 years of age or older and a member of a criminal street gang, as defined by Section 71.01; and
- (2) committed the offense with the intent to:
 - (A) further the criminal activities of the criminal street gang; or
 - (B) avoid detection as a member of a criminal street gang.

SECTION 3. Chapter 71, Penal Code, is amended by adding Sections 71.023, 71.028, and 71.029 to read as follows:

Sec. 71.023. DIRECTING ACTIVITIES OF CERTAIN CRIMINAL STREET GANGS. (a) A person commits an offense if the person knowingly initiates, organizes, plans, finances, directs, manages, or supervises a criminal street gang or members of a criminal street gang with the intent to benefit, promote, or further the interests of the criminal street gang or to increase the person's standing, position, or status in the criminal street gang.

(b) An offense under this section is a felony of the first degree.

(c) Notwithstanding Section 71.01, in this section, "criminal street gang" means:

- (1) an organization that:
 - (A) has more than 10 members whose names are included in an intelligence database under Chapter 61, Code of Criminal Procedure;
 - (B) has a hierarchical structure that has been documented in an intelligence database under Chapter 61, Code of Criminal Procedure;
 - (C) engages in profit-sharing among two or more members of the organization; and
 - (D) in one or more regions of this state served by different regional councils of government, continuously or regularly engages in conduct:
 - (i) that constitutes an offense listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;
 - (ii) in which it is alleged that a deadly weapon is used or exhibited during the commission of or immediate flight from the commission of any felony offense; or

(iii) that is punishable as a felony of the first or second degree under Chapter 481, Health and Safety Code; or

(2) an organization that, in collaboration with an organization described by Subdivision (1), engages in conduct or commits an offense or conspires to engage in conduct or commit an offense described by Subdivision (1)(D).

Sec. 71.028. GANG-FREE ZONES. (a) In this section:

(1) "Institution of higher education," "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(2) "Shopping mall" means an enclosed public walkway or hall area that connects retail, service, or professional establishments.

(b) This section applies to an offense listed in Section 71.02(a)(1), (4), or (7), other than burglary, theft, burglary of a motor vehicle, or unauthorized use of a motor vehicle.

(c) Except as provided by Subsection (d), the punishment prescribed for an offense described by Subsection (b) is increased to the punishment prescribed for the next highest category of offense if the actor is 17 years of age or older and it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense at a location that was:

(1) in, on, or within 1,000 feet of any:

(A) real property that is owned, rented, or leased by a school or school board;

(B) premises owned, rented, or leased by an institution of higher education;

(C) premises of a public or private youth center; or

(D) playground;

(2) in, on, or within 300 feet of any:

(A) shopping mall;

(B) movie theater;

(C) premises of a public swimming pool; or

(D) premises of a video arcade facility; or

(3) on a school bus.

(d) The punishment for an offense described by Subsection (b) may not be increased under this section if the offense is punishable under Section 71.02 as a felony of the first degree.

Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In a prosecution of an offense for which punishment is increased under Section 71.028, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of gang-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those zones if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those zones.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the zone is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 71.028; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Evidence.

SECTION 4. Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.110 to read as follows:

Sec. 37.110. INFORMATION REGARDING GANG-FREE ZONES. The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION 5. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.973 to read as follows:

Sec. 51.973. INFORMATION REGARDING GANG-FREE ZONES. The governing board of each institution of higher education shall ensure that any student handbook or similar publication for the institution includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION 6. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.064 to read as follows:

Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each day-care center shall, in accordance with rules adopted by the executive commissioner, distribute to parents and guardians of children who attend the center information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION 7. Section 37.110, Education Code, as added by this Act, applies beginning with the public school district's 2009-2010 school year.

SECTION 8. Section 51.973, Education Code, as added by this Act, applies beginning with the 2009 fall semester.

SECTION 9. Section 15.031(e) and Section 71.02(a), Penal Code, as amended by this Act, and Section 71.028, Penal Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 10. Subchapter D, Chapter 125, Civil Practice and Remedies Code, is amended by adding Section 125.070 to read as follows:

Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION. (a) In this section, "governmental entity" means a political subdivision of this state, including any city, county, school district, junior college district, levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, and river authority.

(b) A criminal street gang or a member of a criminal street gang is liable to the state or a governmental entity injured by the violation of a temporary or permanent injunctive order under this subchapter.

(c) In an action brought against a member of a criminal street gang, the plaintiff must show that the member violated the temporary or permanent injunctive order.

(d) A district, county, or city attorney or the attorney general may sue for money damages on behalf of the state or a governmental entity. If the state or a governmental entity prevails in a suit under this section, the state or governmental entity may recover:

(1) actual damages;

(2) a civil penalty in an amount not to exceed \$20,000 for each violation; and

(3) court costs and attorney's fees.

(e) The property of the criminal street gang or a member of the criminal street gang may be seized in execution on a judgment under this section. Property may not be seized under this subsection if the owner or interest holder of the property proves by a preponderance of the evidence that the owner or interest holder was not a member of the criminal street gang and did not violate the temporary or permanent injunctive order. The owner or interest holder of property that is in the possession of a criminal street gang or a member of the criminal street gang and that is subject to execution under this subsection must show that the property:

(1) was stolen from the owner or interest holder; or

(2) was used or intended to be used without the effective consent of the owner or interest holder by the criminal street gang or a member of the criminal street gang.

(f) The attorney general shall deposit money received under this section for damages or as a civil penalty in the neighborhood and community recovery fund held by the attorney general outside the state treasury. Money in the fund is held by the attorney general in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Money in the fund may be used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Interest earned on money in the fund shall be credited to the fund. The attorney general shall account for money in the fund so that money held for the benefit of a community or neighborhood, and interest earned on that money, are not commingled with money in the fund held for the benefit of a different community or neighborhood.

(g) A district, county, or city attorney who brings suit on behalf of a governmental entity shall deposit money received for damages or as a civil penalty in an account to be held in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Money in the account may be used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Interest earned on money in the account shall be credited to the account. The district, county, or city attorney shall account for money in the account so that money held for the benefit of a community or neighborhood, and interest earned on that money, are not commingled with money in the account held for the benefit of a different community or neighborhood.

(h) An action under this section brought by the state or a governmental entity does not waive sovereign or governmental immunity for any purpose.

SECTION 11. Article 59.01(2), Code of Criminal Procedure, as amended by Chapters 127 (**SB 1694**), 822 (**HB 73**), and 885 (**HB 2278**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

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

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

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

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

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code;

(vii) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;

(viii) a Class B misdemeanor under Chapter 522, Business & Commerce Code; ~~(viii)~~

(ix) a Class A misdemeanor under Section 35.153, Business & Commerce Code; or

(x) any offense under Chapter 71, Penal Code;

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

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

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

SECTION 12. Chapter 59, Code of Criminal Procedure, is amended by adding Article 59.011 to read as follows:

Art. 59.011. ELECTION OF FORFEITURE PROCEEDING. If property described by Article 59.01(2)(B)(x) is subject to forfeiture under this chapter and Article 18.18, the attorney representing the state may proceed under either this chapter or that article.

SECTION 13. Section 125.070, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 14. Article 59.01(2), Code of Criminal Procedure, as amended by this Act, and Article 59.011, Code of Criminal Procedure, as added by this Act, apply only to the forfeiture of property used in the commission of an offense committed on or after the effective date of this Act. Forfeiture of property used in the commission of an offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 15. Article 42.01, Code of Criminal Procedure, is amended by adding Section 9 to read as follows:

Sec. 9. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0197.

SECTION 16. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0197 to read as follows:

Art. 42.0197. FINDING REGARDING GANG-RELATED CONDUCT. In the trial of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the applicable conduct was engaged in as part of the activities of a criminal street gang as defined by Section 71.01, Penal Code.

SECTION 17. Section 11(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision and may, at any time[;] during the period of community supervision, alter or modify the conditions. The judge may impose any reasonable condition that is designed to protect or restore the community,

protect or restore the victim, or punish, rehabilitate, or reform the defendant. Conditions of community supervision may include, but shall not be limited to, the conditions that the defendant shall:

(1) Commit no offense against the laws of this State or of any other State or of the United States;

(2) Avoid injurious or vicious habits;

(3) Avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang;

(4) Report to the supervision officer as directed by the judge or supervision officer and obey all rules and regulations of the community supervision and corrections department;

(5) Permit the supervision officer to visit the defendant at the defendant's home or elsewhere;

(6) Work faithfully at suitable employment as far as possible;

(7) Remain within a specified place;

(8) Pay the defendant's fine, if one is ~~[be]~~ assessed, and all court costs whether a fine is ~~[be]~~ assessed or not, in one or several sums;

(9) Support the defendant's dependents;

(10) Participate, for a time specified by the judge, in any community-based program, including a community-service work program under Section 16 of this article;

(11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending the defendant in the case, if counsel was appointed, or if the defendant was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;

(12) Remain under custodial supervision in a community corrections facility, obey all rules and regulations of the ~~[such]~~ facility, and pay a percentage of the defendant's income to the facility for room and board;

(13) Pay a percentage of the defendant's income to the defendant's dependents for their support while under custodial supervision in a community corrections facility;

(14) Submit to testing for alcohol or controlled substances;

(15) Attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse;

(16) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(17) Submit to electronic monitoring;

(18) Reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim, as defined by Article 56.32, of the defendant's offense or if no reimbursement is required, make one payment to the compensation to victims of crime fund in an amount not to exceed \$50 if the offense is a misdemeanor or not to exceed \$100 if the offense is a felony;

(19) Reimburse a law enforcement agency for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

(20) Pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;

(21) Make one payment in an amount not to exceed \$50 to a crime stoppers organization as defined by Section 414.001, Government Code, and as certified by the Crime Stoppers Advisory Council;

(22) Submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant;

(23) In any manner required by the judge, provide public notice of the offense for which the defendant was placed on community supervision in the county in which the offense was committed; and

(24) Reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case.

SECTION 18. Article 42.12, Code of Criminal Procedure, is amended by adding Sections 13E and 13F to read as follows:

Sec. 13E. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF CRIMINAL STREET GANG WHO ARE PLACED ON COMMUNITY SUPERVISION. (a) This section applies only to a defendant who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 61; and

(2) has two or more times been previously convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A court granting community supervision to a defendant described by Subsection (a) may, on the defendant's conviction of a felony offense, require as a condition of community supervision that the defendant submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location.

Sec. 13F. RESTRICTIONS ON OPERATION OF MOTOR VEHICLE FOR DEFENDANTS CONVICTED OF CERTAIN ORGANIZED CRIME OFFENSES. A court granting community supervision to a defendant convicted of an offense under Chapter 71, Penal Code, may impose as a condition of community supervision restrictions on the defendant's operation of a motor vehicle, including specifying:

(1) hours during which the defendant may not operate a motor vehicle;
and

(2) locations at or in which the defendant may not operate a motor vehicle.

SECTION 19. Chapter 54, Family Code, is amended by adding Section 54.0491 to read as follows:

Sec. 54.0491. GANG-RELATED CONDUCT. (a) In this section:

(1) "Criminal street gang" has the meaning assigned by Section 71.01, Penal Code.

(2) "Gang-related conduct" means conduct that violates a penal law of the grade of Class B misdemeanor or higher and in which a child engages with the intent to:

(A) further the criminal activities of a criminal street gang of which the child is a member;

(B) gain membership in a criminal street gang; or

(C) avoid detection as a member of a criminal street gang.

(b) A juvenile court, in a disposition hearing under Section 54.04 regarding a child who has been adjudicated to have engaged in delinquent conduct that is also gang-related conduct, shall order the child to participate in a criminal street gang intervention program that is appropriate for the child based on the child's level of involvement in the criminal activities of a criminal street gang. The intervention program:

(1) must include at least 12 hours of instruction; and

(2) may include voluntary tattoo removal.

(c) If a child required to attend a criminal street gang intervention program is committed to the Texas Youth Commission as a result of the gang-related conduct, the child must complete the intervention program before being discharged from the custody of or released under supervision by the commission.

SECTION 20. Subchapter G, Chapter 508, Government Code, is amended by adding Section 508.227 to read as follows:

Sec. 508.227. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF CRIMINAL STREET GANG. (a) This section applies only to a releasee who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 61, Code of Criminal Procedure; and

(2) has three or more times been convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A parole panel may require as a condition of release on parole or to mandatory supervision that a releasee described by Subsection (a) submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location.

SECTION 21. Section 3.03, Penal Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1) an offense:

(A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(2) an offense:

(A) under Section 33.021 or an offense under Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section; ~~or~~

(3) an offense:

(A) under Section 21.15 or 43.26, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections; or

(4) an offense for which the judgment in the case contains an affirmative finding under Article 42.0197, Code of Criminal Procedure.

(b-1) Subsection (b)(4) does not apply to a defendant whose case was transferred to the court under Section 54.02, Family Code.

SECTION 22. Section 9, Article 42.01, Code of Criminal Procedure, and Article 42.0197, Code of Criminal Procedure, as added by this Act, apply only to a judgment of conviction entered on or after the effective date of this Act.

SECTION 23. Section 11(a), Article 42.12, Code of Criminal Procedure, as amended by this Act, and Sections 13E and 13F, Article 42.12, Code of Criminal Procedure, as added by this Act, apply only to a person who is placed on community supervision for an offense committed on or after the effective date of this Act. A person who is placed on community supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 24. Section 54.0491, Family Code, as added by this Act, applies only to conduct that violates a penal law of this state and that occurs on or after the effective date of this Act. Conduct that violates a penal law of this state and that occurs before the effective date of this Act is covered by the law in effect at

the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if each element of the violation occurred before that date.

SECTION 25. Section 508.227, Government Code, as added by this Act, applies only to a person released on parole or to mandatory supervision for an offense committed on or after the effective date of this Act. A person released on parole or to mandatory supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 26. Section 3.03(b), Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 27. Subchapter C, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.067 to read as follows:

Sec. 101.067. GRAFFITI REMOVAL. This chapter does not apply to a claim for property damage caused by the removal of graffiti under Section 250.006, Local Government Code.

SECTION 28. Section 485.018(a), Health and Safety Code, is amended to read as follows:

(a) A political subdivision or an agency of this state may not enact an ordinance or rule that requires a business establishment to display an abusable volatile chemical, other than aerosol paint, in a manner that makes the chemical accessible to patrons of the business only with the assistance of personnel of the business.

SECTION 29. Chapter 250, Local Government Code, is amended by adding Section 250.006 to read as follows:

Sec. 250.006. GRAFFITI REMOVAL. (a) Except as provided by Subsection (h), a county by order or a municipality by ordinance may require the owner of property within the jurisdiction of the county or municipality to remove graffiti from the owner's property on receipt of notice from the county or municipality.

(b) The order or ordinance must provide that a county or municipality may not give notice to a property owner under Subsection (a) unless:

(1) the county or municipality has offered to remove the graffiti from the owner's property free of charge; and

(2) the property owner has refused the offer.

(c) The order or ordinance must require a property owner to remove the graffiti on or before the 15th day after the date the property owner receives notice under Subsection (a). If the property owner fails to remove the graffiti on or before the 15th day after the date of receipt of the notice, the county or

municipality may remove the graffiti and charge the expenses of removal to the property owner in accordance with a fee schedule adopted by the county or municipality.

(d) The notice required by Subsection (a) must be given:

(1) personally to the owner in writing;

(2) by letter sent by certified mail, addressed to the property owner at the property owner's address as contained in the records of the appraisal district in which the property is located; or

(3) if service cannot be obtained under Subdivision (1) or (2):

(A) by publication at least once in a newspaper of general circulation in the county or municipality;

(B) by posting the notice on or near the front door of each building on the property to which the notice relates; or

(C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates.

(e) The county or municipality may assess expenses incurred under Subsection (c) against the property on which the work is performed to remove the graffiti.

(f) To obtain a lien against the property for expenses incurred under Subsection (c), the governing body of the county or municipality must file a statement of expenses with the county clerk. The statement of expenses must contain:

(1) the name of the property owner, if known;

(2) the legal description of the property; and

(3) the amount of expenses incurred under Subsection (c).

(g) A lien described by Subsection (f) attaches to the property on the date on which the statement of expenses is filed in the real property records of the county in which the property is located and is subordinate to:

(1) any previously recorded lien; and

(2) the rights of a purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed as described by Subsection (f).

(h) An order or ordinance described by this section must include an exception from the requirement that an owner of property remove graffiti from the owner's property if:

(1) the graffiti is located on transportation infrastructure; and

(2) the removal of the graffiti would create a hazard for the person performing the removal.

SECTION 30. Section 101.067, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 31. Section 37.10, Penal Code, is amended by adding Subsection (j) to read as follows:

(j) It is not a defense to prosecution under Subsection (a)(2) that the record, document, or thing made, presented, or used displays or contains the statement "NOT A GOVERNMENT DOCUMENT" or another substantially similar statement intended to alert a person to the falsity of the record, document, or thing, unless the record, document, or thing displays the statement diagonally printed clearly and indelibly on both the front and back of the record, document, or thing in solid red capital letters at least one-fourth inch in height.

SECTION 32. Section 521.454, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 33. Section 521.455, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 34. Section 521.456, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 35. Section 37.10(j), Penal Code, and Sections 521.454(d), 521.455(c), and 521.456(e), Transportation Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 36. Article 61.02, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) Criminal information collected under this chapter relating to a criminal street gang must:

(1) be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2) consist of:

(A) a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang;

(B) a self-admission by the individual of criminal street gang membership that is made during a judicial proceeding; or

(C) except as provided by Subsection (d), any two of the following:

(i) a self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding, including the use of the Internet or other electronic format or medium to post photographs or other documentation identifying the individual as a member of a criminal street gang;

(ii) an identification of the individual as a criminal street gang member by a reliable informant or other individual;

(iii) a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability;

(iv) evidence that the individual frequents a documented area of a criminal street gang and associates with known criminal street gang members;

(v) evidence that the individual uses, in more than an incidental manner, criminal street gang dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of how or the means by [the format or medium in] which the symbols are displayed, that are associated with a criminal street gang that operates in an area frequented by the individual and described by Subparagraph (iv); ~~or~~

(vi) evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity;

(vii) evidence that the individual has visited a known criminal street gang member, other than a family member of the individual, while the gang member is confined in or committed to a penal institution; or

(viii) evidence of the individual's use of technology, including the Internet, to recruit new criminal street gang members.

(d) Evidence described by Subsections (c)(2)(C)(iv) and (vii) is not sufficient to create the eligibility of a person's information to be included in an intelligence database described by this chapter unless the evidence is combined with information described by another subparagraph of Subsection (c)(2)(C).

(e) In this article:

(1) "Family member" means a person related to another person within the third degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include a person who is considered to be related to another person by affinity only as described by Section 573.024(b), Government Code.

(2) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Youth Commission, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.

SECTION 37. Article 61.06(b), Code of Criminal Procedure, is amended to read as follows:

(b) Subject to Subsection (c), information collected under this chapter relating to a criminal street gang must be removed from an intelligence database established under Article 61.02 and the intelligence database maintained by the department under Article 61.03 after five [three] years if:

(1) the information relates to the investigation or prosecution of criminal activity engaged in by an individual other than a child; and

(2) the individual who is the subject of the information has not been arrested for criminal activity reported to the department under Chapter 60.

SECTION 38. Article 61.06(c), Code of Criminal Procedure, as amended by Chapters 258 (**SB 11**), 263 (**SB 103**), and 1308 (**SB 909**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the five-year [~~three-year~~] period does not include any period during which the individual who is the subject of the information is:

(1) confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice;

(2) committed to a secure correctional facility operated by or under contract with the Texas Youth Commission, as defined by Section 51.02, Family Code; or

(3) confined in a county jail or confined in or committed to a facility operated by a juvenile board in lieu of being confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice or being committed to a secure correctional facility operated by or under contract with the Texas Youth Commission.

SECTION 39. Article 61.06, Code of Criminal Procedure, as amended by this Act, applies to any applicable information maintained in an intelligence database under Chapter 61 of that code on or after the effective date of this Act.

SECTION 40. Article 18.20, Code of Criminal Procedure, is amended by adding Section 9A to read as follows:

Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED PERSON. (a) The requirements of Sections 8(a)(2)(B) and 9(b)(2) relating to the specification of the facilities from which or the place where a communication is to be intercepted do not apply if:

(1) in the case of an application for an order authorizing the interception of an oral communication:

(A) the application contains a full and complete statement as to why the specification is not practical and identifies the person committing or believed to be committing the offense and whose communications are to be intercepted; and

(B) a judge of competent jurisdiction finds that the specification is not practical; and

(2) in the case of an application for an order authorizing the interception of a wire or electronic communication:

(A) the application identifies the person committing or believed to be committing the offense and whose communications are to be intercepted;

(B) a judge of competent jurisdiction finds that the applicant has made an adequate showing of probable cause to believe that the actions of the person identified in the application could have the effect of thwarting interception from a specified facility; and

(C) the authority to intercept a wire or electronic communication under the order is limited to a period in which it is reasonable to presume that the person identified in the application will be reasonably proximate to the interception device.

(b) A person implementing an order authorizing the interception of an oral communication that, in accordance with this section, does not specify the facility from which or the place where a communication is to be intercepted may begin interception only after the person ascertains the place where the communication is to be intercepted.

(c) A provider of wire or electronic communications that receives an order authorizing the interception of a wire or electronic communication that, in accordance with this section, does not specify the facility from which or the place where a communication is to be intercepted may move the court to modify or quash the order on the ground that the provider's assistance with respect to the interception cannot be performed in a timely or reasonable fashion. On notice to the state, the court shall decide the motion expeditiously.

SECTION 41. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0207 to read as follows:

Sec. 411.0207. PUBLIC CORRUPTION UNIT. (a) In this section, "organized criminal activity" means conduct that constitutes an offense under Section 71.02, Penal Code.

(b) A public corruption unit is created within the department to investigate and assist in the management of allegations of participation in organized criminal activity by:

(1) an individual elected, appointed, or employed to serve as a peace officer for a governmental entity of this state under Article 2.12, Code of Criminal Procedure; or

(2) a federal law enforcement officer while performing duties in this state.

(c) The unit shall:

(1) assist district attorneys and county attorneys in the investigation and prosecution of allegations described by Subsection (b);

(2) if requested by the agency, assist a state or local law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(3) assist the United States Department of Justice or any other appropriate federal department or agency in the investigation and prosecution of allegations described by Subsection (b);

(4) if requested by the agency, assist a federal law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(5) serve as a clearinghouse for information relating to the investigation and prosecution of allegations described by Subsection (b); and

(6) report to the highest-ranking officer of the Texas Rangers division of the department.

(d) On written approval of the director or of the chair of the commission, the highest-ranking officer of the Texas Rangers division of the department may initiate an investigation of an allegation of participation in organized criminal activity by a law enforcement officer described by Subsection (b)(1). Written approval under this subsection must be based on cause.

(e) To the extent allowed by law, a state or local law enforcement agency shall cooperate with the public corruption unit by providing information requested by the unit as necessary to carry out the purposes of this section. Information described by this subsection is excepted from required disclosure under Chapter 552 in the manner provided by Section 552.108.

SECTION 42. Chapter 772, Government Code, is amended by adding Section 772.007 to read as follows:

Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The criminal justice division established under Section 772.006 shall administer a competitive grant program to support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities.

(b) The grant program administered under this section must be directed toward regions of this state that have demonstrably high levels of gang violence.

(c) The criminal justice division shall award grants to qualified applicants, as determined by the division, that demonstrate a comprehensive approach that balances gang prevention, intervention, and suppression activities to reduce gang violence.

(d) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) detailed reporting of the results and performance of the grant program administered under this section.

(e) The criminal justice division may use any revenue available for purposes of this section.

SECTION 43. Section 9A, Article 18.20, Code of Criminal Procedure, as added by this Act, applies only to an application for an order authorizing the interception of a wire, oral, or electronic communication that is submitted on or after the effective date of this Act. An application that was submitted before the effective date of this Act is covered by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 44. Not later than December 1, 2010, the Department of Public Safety shall establish the public corruption unit under Section 411.0207, Government Code, as added by this Act.

SECTION 45. To the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 46. (a) The Legislative Budget Board shall prepare an annual criminal justice policy impact statement for this Act.

(b) The impact statement must include information concerning:

(1) the number of arrests and resulting criminal dispositions under this Act;

(2) the fiscal impact of arrests, trials, convictions, and imprisoning or imposing other sanctions on persons in accordance with this Act;

(3) the race and ethnicity of persons arrested, prosecuted, convicted, and incarcerated under this Act;

(4) the impact of this Act on existing correctional facilities, as defined by Section 1.07, Penal Code;

(5) the likelihood that this Act may create a need for additional prison capacity;

(6) civil action damages assessed and collected, and assets seized and forfeited under this Act; and

(7) any other matter the Legislative Budget Board determines relevant.

(c) The Legislative Budget Board shall complete the impact statement not later than December 1 each year, beginning December 1, 2010, and make it available to the public on its website.

SECTION 47. (a) Except as provided by Subsection (b), this Act takes effect September 1, 2009.

(b) Sections 37.110 and 51.973, Education Code, and Section 42.064, Human Resources Code, as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, those sections of the Education Code and Human Resources Code take effect September 1, 2009.

Representative Moody moved to adopt the conference committee report on **HB 2086**.

The motion to adopt the conference committee report on **HB 2086** prevailed by (Record 1625): 142 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Dutton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — England; Howard, C.

SB 1273 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Fletcher submitted the conference committee report on **SB 1273**.

Representative Fletcher moved to adopt the conference committee report on **SB 1273**.

The motion to adopt the conference committee report on **SB 1273** prevailed by (Record 1626): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — England; Martinez Fischer; McReynolds; Smith, W.

(Farabee in the chair)

SB 2468 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hernandez submitted the conference committee report on **SB 2468**.

SB 2468 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PHILLIPS: For the purpose of statutory intent, I just want to repeat what you said, "The purpose of this bill is to only affect Harris County and no other counties in the State of Texas." Is that correct?

REPRESENTATIVE HERNANDEZ: That is correct.

REMARKS ORDERED PRINTED

Representative Phillips moved to print remarks between Representative Hernandez and Representative Phillips.

The motion prevailed.

Representative Hernandez moved to adopt the conference committee report on **SB 2468**.

The motion to adopt the conference committee report on **SB 2468** prevailed by (Record 1627): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Gutierrez; Homer.

STATEMENT OF VOTE

When Record No. 1627 was taken, I was temporarily out of the house chamber. I would have voted yes.

Homer

HB 3309 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gattis submitted the following conference committee report on **HB 3309**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3309** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ogden

Gattis

Estes

Kolkhorst

Fraser

Hamilton

Lucio

Ritter

Williams

Lucio

On the part of the senate

On the part of the house

HB 3309, A bill to be entitled An Act relating to certificates of convenience and necessity for the construction of transmission facilities.

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

SECTION 1. Subchapter B, Chapter 37, Utilities Code, is amended by adding Section 37.0541 to read as follows:

Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The commission shall consolidate the proceeding on an application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line with the proceeding on another application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line if it is apparent from the applications or a motion to intervene in either proceeding that the transmission lines that are the subject of the separate proceedings share a common point of interconnection. This section does not apply to a proceeding on an application for a certificate of convenience and necessity for a transmission line to serve a competitive renewable energy zone as part of a plan developed by the commission under Section 39.904(g)(2).

SECTION 2. Section 37.051, Utilities Code, is amended by amending Subsection (a) and adding Subsections (d), (e), and (f) to read as follows:

(a) An electric utility or other person may not directly or indirectly provide service to the public under a franchise or permit unless the utility or other person first obtains from the commission a certificate that states that the public convenience and necessity requires or will require the installation, operation, or extension of the service.

(d) A certificate may be granted to an electric utility or other person under this section for a facility used as part of the transmission system serving the ERCOT power region solely for the transmission of electricity.

(e) The commission may consider an application filed by a person not currently certificated as an electric utility for a certificate of convenience and necessity to construct transmission capacity that serves the ERCOT power region. Before granting a certificate under this section, the commission must find, after notice and hearing, that:

(1) the applicant has the technical ability, financial ability, and sufficient resources in this state to own, operate, and maintain reliable transmission facilities;

(2) the applicant has the resources and ability to comply with commission rules, requirements of the independent organization certified under Section 39.151 for the ERCOT power region, and requirements of the National Electric Reliability Council applicable to the provisions of transmission service; and

(3) for an application filed by a person that is not an electric utility, granting the application will not adversely affect wholesale transmission rates, as compared to the rates projected to be charged if an existing electric utility were to build the transmission facility.

(f) The commission shall consider the requirements of Subsection (e) to have been met by an electric utility or other person that:

(1) is selected by the commission as a transmission provider under a plan adopted by the commission under Section 39.904 not later than September 1, 2009; and

(2) before the certificate is issued, provides to the commission a detailed plan regarding the offices, personnel, and other resources the electric utility or other person will have in this state to ensure provision of continuous and adequate transmission service.

SECTION 3. Section 37.053(a), Utilities Code, is amended to read as follows:

(a) An electric utility or other person that wants to obtain or amend a certificate must submit an application to the commission.

SECTION 4. Sections 37.055, 37.057, and 37.151, Utilities Code, are amended to read as follows:

Sec. 37.055. REQUEST FOR PRELIMINARY ORDER. (a) An electric utility or other person that wants to exercise a right or privilege under a franchise or permit that the utility or other person anticipates obtaining but has not been granted may apply to the commission for a preliminary order under this section.

(b) The commission may issue a preliminary order declaring that the commission, on application and under commission rules, will grant the requested certificate on terms the commission designates, after the electric utility or other person obtains the franchise or permit.

(c) The commission shall grant the certificate on presentation of evidence satisfactory to the commission that the electric utility or other person has obtained the franchise or permit.

Sec. 37.057. DEADLINE FOR APPLICATION FOR NEW TRANSMISSION FACILITY. The commission may grant a certificate for a new transmission facility to a qualified applicant that meets the requirements of this subchapter. The commission must approve or deny an application for a certificate for a new transmission facility not later than the first anniversary of the date the application is filed. If the commission does not approve or deny the application on or before that date, a party may seek a writ of mandamus in a district court of Travis County to compel the commission to decide on the application.

Sec. 37.151. PROVISION OF SERVICE. Except as provided by this section, Section 37.152, and Section 37.153, a certificate holder, other than one granted a certificate under Section 37.051(d), shall:

- (1) serve every consumer in the utility's certificated area; and
- (2) provide continuous and adequate service in that area.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Gattis moved to adopt the conference committee report on **HB 3309**.

The motion to adopt the conference committee report on **HB 3309** prevailed by (Record 1628): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Homer.

STATEMENT OF VOTE

When Record No. 1628 was taken, I was temporarily out of the house chamber. I would have voted yes.

Homer

SB 52 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McReynolds submitted the conference committee report on **SB 52**.

SB 52 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PHILLIPS: Also, in a situation where you have a person who—maybe they truly are handicapped, they have a placard, and that placard expired—you're not intending that that person—

REPRESENTATIVE MCREYNOLDS: No, sir.

PHILLIPS: —when they go before the judge to present that—this bill does not intend to have that person also be fined?

MCREYNOLDS: It says nothing about that in this bill.

Representative McReynolds moved to adopt the conference committee report on **SB 52**.

The motion to adopt the conference committee report on **SB 52** prevailed by (Record 1629): 92 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Burnam; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; England; Farabee(C); Farias; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; Jackson; Jones; Keffer; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Rodriguez; Rose; Shelton; Smith, T.; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Woolley.

Nays — Anderson; Aycock; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Button; Christian; Corte; Crabb; Craddick; Dutton; Elkins; Fletcher; Flynn; Frost; Gattis; Geren; Hamilton; Hardcastle; Hartnett; Heflin; Hilderbran; Hopson; Howard, C.; Hughes; Hunter; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Lewis; Madden; Mallory Caraway; Merritt; Miller, D.; Morrison; Parker; Paxton; Ritter; Sheffield; Smith, W.; Smithee; Solomons; Swinford; Truitt; Villarreal; Weber; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Isett; Pitts; Riddle.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1629. I intended to vote no.

Harless

REMARKS ORDERED PRINTED

Representative Leibowitz moved to print remarks between Representative Phillips and Representative McReynolds.

The motion prevailed.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

**HR 2930 - ADOPTED
(by Guillen)**

The following privileged resolution was laid before the house:

HR 2930

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 379**, relating to an annual report by the Texas Fusion Center regarding criminal street gangs and gang-related crime, to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 1 of the bill, in added Section 421.082(e), Government Code, and in SECTION 2 of the bill, so that they read as follows:

(e) The gang section of the center shall annually submit to the governor and the legislature a report assessing the threat posed statewide by criminal street gangs. The report must include identification of:

(1) law enforcement strategies that have been proven effective in deterring gang-related crime; and

(2) gang involvement in trafficking of persons.

SECTION 2. The gang section of the Texas Fusion Center shall submit the first annual report required by Subsection (e), Section 421.082, Government Code, as added by this Act, not later than September 1, 2010.

Explanation: This change is necessary to require the gang section of the Texas Fusion Center to produce the report and to ensure that certain matters are included in the report.

(2) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 1 of the bill, in added Section 421.082(f), Government Code, so that it reads as follows:

(f) On request, the office of the attorney general, the Department of Public Safety, the Texas Department of Criminal Justice, other law enforcement agencies, and juvenile justice agencies of this state shall provide to the gang section of the center information relating to criminal street gangs, gang-related crime, and gang involvement in trafficking of persons.

Explanation: This change is necessary to require certain law enforcement agencies to comply with a request from the Texas Fusion Center to provide information relating to criminal street gangs, gang-related crime, and gang involvement in trafficking of persons.

(3) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in proposed SECTION 1 of the bill, by omitting added Section 421.082(g), Government Code.

Explanation: The omission is necessary to remove a restriction on the information that may be included in the report.

HR 2930 was adopted by (Record 1630): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee(C); Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Isett; Olivo.

STATEMENT OF VOTE

When Record No. 1630 was taken, I was temporarily out of the house chamber. I would have voted yes.

Olivo

SB 379 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the conference committee report on **SB 379**.

Representative Guillen moved to adopt the conference committee report on **SB 379**.

The motion to adopt the conference committee report on **SB 379** prevailed by (Record 1631): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; England; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Eiland; Elkins; Isett; Jackson; Maldonado; Moody.

STATEMENT OF VOTE

When Record No. 1631 was taken, I was in the house but away from my desk. I would have voted yes.

Moody

HR 2967 - ADOPTED (by Hughes)

The following privileged resolution was laid before the house:

HR 2967

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 726** (the creation of the Harrison County and Prairielands Groundwater Conservation Districts, providing authority to impose a tax and issue bonds and granting a limited power of eminent domain) to consider and take action on the following matter:

House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in proposed Section 8850.005, Special District Local Laws Code, in both versions of the bill, that reads as follows:

Sec. 8850.005. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2013, the district boundaries must include at least one county adjacent to Harrison County.

(b) As soon as practicable after September 1, 2013, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the commission determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2015.

Explanation: The omission is necessary because this provision is not essential to the creation, duties, or powers of the district.

HR 2967 was adopted by (Record 1632): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Isett; Patrick.

(Speaker in the chair)

SB 726 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hughes submitted the conference committee report on **SB 726**.

Representative Hughes moved to adopt the conference committee report on **SB 726**.

The motion to adopt the conference committee report on **SB 726** prevailed by (Record 1633): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Isett.

HB 2347 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 2347**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2347** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Whitmire

Ogden

Zaffirini

Gallegos

Duncan

On the part of the senate

Thibaut

Driver

Fletcher

Guillen

Coleman

On the part of the house

HB 2347, A bill to be entitled An Act relating to tuition and fee exemptions at public institutions of higher education for certain peace officers enrolled in criminal justice or law enforcement course work and for certain educational aides.

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

SECTION 1. Section 54.208, Education Code, is amended to read as follows:

Sec. 54.208. ~~FIREFIGHTERS AND PEACE OFFICERS [FIREMEN]~~ ENROLLED IN CERTAIN ~~[FIRE SCIENCE]~~ COURSES. (a) ~~The governing board of an institution of higher education [boards of the state institutions of collegiate rank supported in whole or in part by public funds]~~ shall exempt from the payment of tuition and laboratory fees a student ~~[any person]~~ who is employed as a firefighter [fireman] by a [any] political subdivision of this [the] state and who enrolls in a course or courses offered as part of a fire science curriculum.

(b) The governing board of an institution of higher education shall exempt from the payment of tuition and laboratory fees charged by the institution for a criminal justice or law enforcement course or courses an undergraduate student who:

(1) is employed as a peace officer by this state or by a political subdivision of this state;

(2) is enrolled in a criminal justice or law enforcement-related degree program at the institution;

(3) is making satisfactory academic progress toward the student's degree as determined by the institution; and

(4) applies for the exemption at least one week before the last date of the institution's regular registration period for the applicable semester or other term.

(c) Notwithstanding Subsection (b), a student may not receive an exemption under that subsection for any course if the student has previously attempted a number of semester credit hours for courses taken at any institution of higher education while classified as a resident student for tuition purposes in excess of the maximum number of those hours specified by Section 61.0595(a) as eligible for funding under the formulas established under Section 61.059.

(d) Notwithstanding Subsection (b), the governing board of an institution of higher education may not provide exemptions under that subsection to students enrolled in a specific class in a number that exceeds 20 percent of the maximum student enrollment designated by the institution for that class.

(e) An [The] exemption provided under this section does not apply to deposits that [which] may be required in the nature of security for the return or proper care of property loaned for the use of students.

(f) The Texas Higher Education Coordinating Board shall adopt:

(1) rules governing the granting or denial of an exemption under this section, including rules relating to the determination of a student's eligibility for an exemption; and

(2) a uniform listing of degree programs covered by the exemption under this section.

(g) If the legislature does not specifically appropriate funds to an institution of higher education in an amount sufficient to pay the institution's costs in complying with this section for a semester, the governing board of the institution of higher education shall report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying with this section for that semester.

SECTION 2. Section 54.214(d), Education Code, is amended to read as follows:

(d) The institution of higher education at which a person seeking an exemption under this section is enrolled ~~[coordinating board]~~ must certify the [a] person's eligibility to receive the [an] exemption ~~[under this section]~~. As soon as practicable after receiving an application for certification, the institution ~~[coordinating board]~~ shall make the determination of eligibility and give notice of its determination to the applicant ~~[-, the institution of higher education at which the applicant is enrolled,]~~ and to the school district employing the applicant ~~[person]~~ as an educational aide.

SECTION 3. The changes in law made by this Act to Section 54.208, Education Code, apply beginning with tuition and laboratory fees charged for the 2011 fall semester. Tuition and laboratory fees charged for an academic period before the 2011 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. The change in law made by this Act to Section 54.214, Education Code, applies to an exemption from tuition and fees granted under that section beginning with the 2009 fall semester.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) SECTIONS 1 and 3 of this Act take effect January 1, 2011.

Representative Guillen moved to adopt the conference committee report on **HB 2347**.

The motion to adopt the conference committee report on **HB 2347** prevailed by (Record 1634): 135 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Keffer; Kent; King, P.; King, S.;

(2) the cost of the service does not exceed the cost of other similar services of similar expected quality that are offered by a bidder that is not entitled to a preference under this subsection.

(g) For purposes of Subsection (f), "commercial production company" means a corporation, limited liability company, partnership, or other private entity that includes as one of its purposes the production of one or more television, film, radio, or other media-related commercials.

(h) The Music, Film, Television, and Multimedia Office within the office of the governor has exclusive rulemaking authority for purposes of:

(1) determining whether an advertising campaign is subject to the requirements of this section;

(2) establishing a bid process for purposes of the services described by Subsection (f); and

(3) establishing criteria to determine whether a commercial production company or advertising agency is located in this state for the purposes of this section.

SECTION 2. The change in law made by this Act applies only to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after the effective date of this Act. A contract for which a state agency first advertised or otherwise solicited bids, proposals, offers, or qualifications before the effective date of this Act is governed by the law in effect when the first advertisement or solicitation was given, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

Representative Pickett moved to adopt the conference committee report on **HB 2521**.

The motion to adopt the conference committee report on **HB 2521** prevailed by (Record 1635): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Allen; Isett.

HB 3076 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Deshotel submitted the following conference committee report on **HB 3076**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3076** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

West	Deshotel
Averitt	Allen
Shapiro	Eissler
Watson	

On the part of the senate	On the part of the house
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HB 3076, A bill to be entitled An Act relating to a parenting and paternity awareness program used in the health curriculum for public schools.

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

SECTION 1. Section 28.002, Education Code, is amended by amending Subsection (p) and adding Subsections (p-2), (p-3), and (p-4) to read as follows:

(p) The State Board of Education, in conjunction with the office of the attorney general, shall develop a parenting and paternity awareness program that a school district shall use in the district's high school health curriculum. A school district may use the program developed under this subsection in the district's middle or junior high school curriculum. At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level.

The program must:

- (1) address parenting skills and responsibilities, including child support and other legal rights and responsibilities that come with parenthood;
- (2) address relationship skills, including money management, communication skills, and marriage preparation; and
- (3) in district middle, junior high, or high schools that do not have a family violence prevention program, address skills relating to the prevention of family violence.

(p-2) A school district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed under Subsection (p). The programs and curriculum materials may provide instruction in:

(1) child development;
(2) parenting skills, including child abuse and neglect prevention; and
(3) assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

(p-3) The agency shall evaluate programs and curriculum materials developed under Subsection (p-2) and distribute to other school districts information regarding those programs and materials.

(p-4) A student under 14 years of age may not participate in a program developed under Subsection (p) without the permission of the student's parent or person standing in parental relation to the student.

SECTION 2. This Act applies beginning with the 2009-2010 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Deshotel moved to adopt the conference committee report on **HB 3076**.

The motion to adopt the conference committee report on **HB 3076** prevailed by (Record 1636): 103 Yeas, 37 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bolton; Bonnen; Branch; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Corte; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Kent; King, P.; King, T.; Kleinschmidt; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Berman; Brown, B.; Brown, F.; Button; Chisum; Christian; Cook; Crabb; Craddick; Creighton; Fletcher; Flynn; Gattis; Geren; Hardcastle; Harless; Harper-Brown; Howard, C.; Jackson; Jones; Keffer; King, S.; Kolkhorst; Laubenberg; Madden; McCall; Miller, D.; Parker; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, W.; Weber; Woolley.

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

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Alvarado; Bohac; Eiland; Isett.

STATEMENTS OF VOTE

When Record No. 1636 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

I was shown voting yes on Record No. 1636. I intended to vote no.

Elkins

I was shown voting yes on Record No. 1636. I intended to vote no.

Hunter

When Record No. 1636 was taken, I was in the house but away from my desk. I would have voted yes.

Isett

HB 4009 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Weber submitted the following conference committee report on **HB 4009**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4009** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte
Ogden
Whitmire
Hinojosa
Williams

Weber
Anchia
Hughes
Hunter
Thompson
On the part of the house

On the part of the senate

HB 4009, A bill to be entitled An Act relating to the provision of services to certain persons involved in, and the prosecution, punishment, and prevention of, offenses involving trafficking of persons or certain forced or sex-based labor or services, and to law enforcement training related to offenses involving that trafficking.

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

SECTION 1. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.035 to read as follows:

Sec. 402.035. HUMAN TRAFFICKING PREVENTION TASK FORCE.

(a) In this section, "task force" means the human trafficking prevention task force.

(b) The office of the attorney general shall establish the human trafficking prevention task force to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes.

(c) The task force is composed of the following:

(1) the governor or the governor's designee;

(2) the attorney general or the attorney general's designee;

(3) the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;

(4) the commissioner of the Department of Family and Protective Services or the commissioner's designee;

(5) the public safety director of the Department of Public Safety or the director's designee;

(6) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency:

(A) the Texas Workforce Commission;

(B) the Texas Department of Criminal Justice;

(C) the Texas Youth Commission;

(D) the Texas Juvenile Probation Commission; and

(E) the Texas Alcoholic Beverage Commission; and

(7) as appointed by the attorney general:

(A) a public defender, as defined by Article 26.044, Code of Criminal Procedure;

(B) an attorney representing the state;

(C) a representative of:

(i) a hotel and motel association;

(ii) a district and county attorneys association; and

(iii) a state police association;

(D) representatives of sheriff's departments;

(E) representatives of local law enforcement agencies affected by human trafficking; and

(F) representatives of nongovernmental entities making comprehensive efforts to combat human trafficking by:

(i) identifying human trafficking victims;

(ii) providing legal or other services to human trafficking victims;

(iii) participating in community outreach or public awareness efforts regarding human trafficking;

(iv) providing or developing training regarding the prevention of human trafficking; or

(v) engaging in other activities designed to prevent human trafficking.

(d) The task force shall:

(1) collaborate, as needed to fulfill the duties of the task force, with:

(A) United States attorneys for the districts of Texas; and

(B) special agents or customs and border protection officers and border patrol agents of:

- (i) the Federal Bureau of Investigation;
- (ii) the United States Drug Enforcement Administration;
- (iii) the Bureau of Alcohol, Tobacco, Firearms and Explosives;
- (iv) the United States Immigration and Customs Enforcement

Agency; or

- (v) the United States Department of Homeland Security;

(2) collect, organize, and periodically publish statistical data on the nature and extent of human trafficking in this state;

(3) solicit cooperation and assistance from state and local governmental agencies, political subdivisions of the state, nongovernmental organizations, and other persons, as appropriate, for the purpose of collecting and organizing statistical data under Subdivision (2);

(4) ensure that each state or local governmental agency and political subdivision of the state that assists in the prevention of human trafficking collects statistical data related to human trafficking, including, as appropriate:

(A) the number of investigations concerning, arrests and prosecutions for, and convictions of:

- (i) the offense of trafficking of persons; and

(ii) the offense of forgery or an offense under Chapter 43, Penal Code, if committed as part of a criminal episode involving the trafficking of persons;

(B) demographic information on persons who are convicted of offenses described by Paragraph (A) and persons who are the victims of those offenses;

(C) geographic routes by which human trafficking victims are trafficked and geographic patterns in human trafficking, including the country or state of origin and the country or state of destination;

(D) means of transportation and methods used by persons who engage in trafficking to transport their victims; and

(E) social and economic factors that create a demand for the labor or services that victims of human trafficking are forced to provide;

(5) work with the Commission on Law Enforcement Officer Standards and Education to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify victims of human trafficking;

(6) on the request of a judge of a county court, county court at law, or district court or a county attorney, district attorney, or criminal district attorney, assist and train the judge or the judge's staff or the attorney or the attorney's staff in the recognition and prevention of human trafficking;

(7) examine training protocols related to human trafficking issues, as developed and implemented by federal, state, and local law enforcement agencies;

(8) collaborate with state and local governmental agencies, political subdivisions of the state, and nongovernmental organizations to implement a media awareness campaign in communities affected by human trafficking; and

(9) develop recommendations on how to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and prosecute human trafficking offenders.

(e) The presiding officer of the task force is the attorney general or the attorney general's designee.

(f) The office of the attorney general shall supervise the administration of the task force. The attorney general shall provide the necessary staff and facilities to assist the task force in performing its duties.

(g) Not later than December 1 of each even-numbered year, the task force shall submit a report regarding the task force's activities, findings, and recommendations, including any proposed legislation, to the governor, the lieutenant governor, and the legislature.

(h) This section expires September 1, 2013.

SECTION 2. Chapter 531, Government Code, is amended by adding Subchapter J-1 to read as follows:

SUBCHAPTER J-1. ASSISTANCE PROGRAM FOR DOMESTIC VICTIMS
OF TRAFFICKING

Sec. 531.381. DEFINITIONS. In this subchapter:

(1) "Domestic victim" means a victim of trafficking who is a permanent legal resident or citizen of the United States.

(2) "Victim of trafficking" has the meaning assigned by 22 U.S.C. Section 7102.

Sec. 531.382. VICTIM ASSISTANCE PROGRAM ESTABLISHED. The commission shall develop and implement a program designed to assist domestic victims, including victims who are children, in accessing necessary services. The program must consist of at least the following components:

(1) a searchable database of assistance programs for domestic victims, including programs that provide mental health services, other health services, services to meet victims' basic needs, case management services, and any other services the commission considers appropriate, that may be used to match victims with appropriate resources;

(2) the grant program described by Section 531.383;

(3) recommended training programs for judges, prosecutors, and law enforcement personnel; and

(4) an outreach initiative to ensure that victims, judges, prosecutors, and law enforcement personnel are aware of the availability of services through the program.

Sec. 531.383. GRANT PROGRAM. (a) Subject to available funds, the commission shall establish a grant program to award grants to public and nonprofit organizations that provide assistance to domestic victims, including organizations that provide public awareness activities, community outreach and training, victim identification services, and legal services.

(b) To apply for a grant under this section, an applicant must submit an application in the form and manner prescribed by the commission. An applicant must describe in the application the services the applicant intends to provide to domestic victims if the grant is awarded.

(c) In awarding grants under this section, the commission shall give preference to organizations that have experience in successfully providing the types of services for which the grants are awarded.

(d) A grant recipient shall provide reports as required by the commission regarding the use of grant funds.

(e) Not later than December 1 of each even-numbered year, the commission shall submit a report to the legislature summarizing the activities, funding, and outcomes of programs awarded a grant under this section and providing recommendations regarding the grant program.

Sec. 531.384. TRAINING PROGRAMS. The commission, with assistance from the Office of Court Administration of the Texas Judicial System, the Department of Public Safety, and local law enforcement agencies, shall create training programs designed to increase the awareness of judges, prosecutors, and law enforcement personnel of the needs of domestic victims, the availability of services under this subchapter, the database of services described by Section 531.382, and potential funding sources for those services.

Sec. 531.385. FUNDING. (a) The commission may use appropriated funds and may accept gifts, grants, and donations from any sources for purposes of the victim assistance program established under this subchapter.

(b) The commission shall conduct a study regarding additional funding strategies for the victim assistance program. In conducting the study, the commission, in cooperation with appropriate governmental entities, shall identify appropriate revenue streams, which may include revenue derived from:

(1) revenue streams similar to those used to fund crime victims' compensation under Subchapter B, Chapter 56, Code of Criminal Procedure;

(2) imposing additional court costs on defendants on conviction of certain offenses;

(3) imposing additional fees on the filing of civil cases;

(4) acquiring from law enforcement agencies the proceeds from assets seized or forfeited under state or federal law; and

(5) any other source identified by the commission.

(c) The commission shall submit a report regarding the results of the study conducted under Subsection (b) to the 82nd Legislature not later than December 1, 2010. The report must include the commission's findings regarding appropriate revenue streams for the victim assistance program, proposed legislation necessary to receive the revenue for that purpose, and proposed legislation regarding the establishment of a dedicated account to which the revenue may be credited.

(d) This subsection and Subsections (b) and (c) expire January 1, 2011.

SECTION 3. Section 772.006, Government Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The trafficking of persons investigation and prosecution account is created in the general revenue fund. The account is composed of legislative appropriations and other money required by law to be deposited in the account. Income from money in the account shall be credited to the account. Sections 403.095 and 404.071 do not apply to the account.

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

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

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

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

SECTION 4. Subchapter C, Chapter 141, Human Resources Code, is amended by adding Section 141.056 to read as follows:

Sec. 141.056. STUDY OF ALTERNATIVES TO JUVENILE JUSTICE SYSTEM FOR CHILDREN WHO ENGAGE IN ACTS OF PROSTITUTION.

(a) The director shall establish a committee to evaluate alternatives to the juvenile justice system, such as government programs, faith-based programs, and programs offered by nonprofit organizations, for children who are accused of engaging in acts of prostitution.

(b) The director shall determine the size of the committee. The committee must be composed of:

(1) members of the Texas Juvenile Probation Commission, the Texas Youth Commission, and other relevant state agencies as determined by the director;

(2) members of the legislature;

(3) members of nongovernmental organizations that provide programs and services to combat and prevent trafficking of persons as described by Section 20A.02, Penal Code, in this state, including the following with respect to that trafficking:

(A) programs to promote public awareness;

(B) programs to identify and provide services to victims;

(C) legal services; and

(D) community outreach and training programs; and

(4) other juvenile justice experts.

(c) Not later than January 1, 2011, the committee shall prepare and deliver to each member of the legislature a report that includes the results of the study and recommendations for alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution.

(d) This section expires June 1, 2011.

SECTION 5. Subchapter F, Chapter 1701, Occupations Code, is amended by adding Section 1701.258 to read as follows:

Sec. 1701.258. EDUCATION AND TRAINING PROGRAMS ON TRAFFICKING OF PERSONS. (a) The commission by rule shall require an officer first licensed by the commission on or after January 1, 2011, to complete within a reasonable time after obtaining the license a one-time basic education and training program on the trafficking of persons. The program must:

(1) consist of at least four hours of training; and

(2) include a review of the substance of Sections 20A.02 and 43.05, Penal Code.

(b) The commission shall make available to each officer a voluntary advanced education, instruction, and training program on the trafficking of persons and compelling prostitution prohibited under Sections 20A.02 and 43.05, Penal Code.

(c) Not later than January 1, 2011, the commission shall begin offering the basic and advanced programs established under this section. This subsection expires September 1, 2011.

SECTION 6. Section 1701.402, Occupations Code, is amended by adding Subsection (h) to read as follows:

(h) As a requirement for an intermediate or advanced proficiency certificate issued by the commission on or after January 1, 2011, an officer must complete the basic education and training program on the trafficking of persons described by Section 1701.258(a).

SECTION 7. Subsections (a) and (b), Section 20A.02, Penal Code, are amended to read as follows:

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

(1) ~~knowingly~~ traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services; or

(2) ~~intentionally or knowingly~~ benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services.

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Section 43.05 or 43.25 ~~[43.02]~~ and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

SECTION 8. Section 43.02, Penal Code, is amended by adding Subsection (d) to read as follows:

(d) It is a defense to prosecution under this section that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section 20A.02.

SECTION 9. Subsection (a), Section 43.05, Penal Code, is amended to read as follows:

(a) A person commits an offense if the person ~~[he]~~ knowingly:

- (1) causes another by force, threat, or fraud to commit prostitution; or
 (2) causes by any means a child [person] younger than 18 [17] years to commit prostitution, regardless of whether the actor knows the age of the child at the time the actor commits the offense.

SECTION 10. (a) Not later than December 1, 2009, the office of the attorney general shall establish the human trafficking prevention task force as required by Section 402.035, Government Code, as added by this Act.

(b) Not later than October 1, 2009, the executive director of the Texas Juvenile Probation Commission shall establish a committee to evaluate alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution, as required by Section 141.056, Human Resources Code, as added by this Act.

(c) Not later than December 1, 2010, the Commission on Law Enforcement Officer Standards and Education shall adopt the rules necessary to implement Section 1701.258, Occupations Code, as added by this Act.

(d) The changes in law made by this Act to Sections 20A.02, 43.02, and 43.05, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 11. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 12. This Act takes effect September 1, 2009.

Representative Weber moved to adopt the conference committee report on **HB 4009**.

The motion to adopt the conference committee report on **HB 4009** prevailed by (Record 1637): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody;

Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Berman; Creighton.

STATEMENT OF VOTE

When Record No. 1637 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

SB 686 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Orr submitted the conference committee report on **SB 686**.

Representative Orr moved to adopt the conference committee report on **SB 686**.

The motion to adopt the conference committee report on **SB 686** prevailed by (Record 1638): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Callegari; Crabb; Creighton; Kolkhorst; Miller, S.; Olivo; Ortiz.

STATEMENTS OF VOTE

When Record No. 1638 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 1638 was taken, I was temporarily out of the house chamber. I would have voted yes.

Olivo

(Chisum in the chair)

SB 1495 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Oliveira submitted the conference committee report on **SB 1495**.

Representative Oliveira moved to adopt the conference committee report on **SB 1495**.

The motion to adopt the conference committee report on **SB 1495** prevailed by (Record 1639): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

HB 756 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Martinez Fischer submitted the following conference committee report on **HB 756**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 756** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis	Martinez Fischer
Deuell	Anchia
Duncan	Laubenberg
Zaffirini	Gutierrez
On the part of the senate	On the part of the house

HB 756, A bill to be entitled An Act relating to the making or acceptance of political contributions in a building owned by or leased to the state.

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

SECTION 1. Section 253.039, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (e) to read as follows:

(a) A person may not knowingly make or authorize a political contribution while in a state office building [~~the Capitol~~] to:

- (1) a candidate or officeholder;
- (2) a political committee; or
- (3) a person acting on behalf of a candidate, officeholder, or political committee.

(b) A candidate, officeholder, or political committee or a person acting on behalf of a candidate, officeholder, or political committee may not knowingly accept a political contribution, and shall refuse a political contribution that is received, in a state office building [~~the Capitol~~].

(e) In this section, "state office building" means any building owned by the state or a building or office leased to the state for state purposes. The prohibitions prescribed by Subsections (a) and (b) apply only to the portion of the building used for state business.

SECTION 2. Section 253.039(c), Election Code, is repealed.

SECTION 3. (a) Section 253.039, Election Code, as amended by this Act, applies only to an offense committed on or after September 1, 2009. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before September 1, 2009, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.

Representative Martinez Fischer moved to adopt the conference committee report on **HB 756**.

The motion to adopt the conference committee report on **HB 756** prevailed by (Record 1640): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Darby; Howard, C.; Smith, W.

HB 3461 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Orr submitted the following conference committee report on **HB 3461**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3461** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Watson
Seliger
Carona
Averitt

Orr
Chisum
Bonnen
Gattis

On the part of the senate

On the part of the house

HB 3461, A bill to be entitled An Act relating to the powers and duties of the School Land Board and the commissioner of the General Land Office.

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

SECTION 1. Section 32.001(4), Natural Resources Code, is amended to read as follows:

(4) "Land" means:

(A) land dedicated to or acquired on behalf of the permanent school fund and the asylum funds under ~~[by]~~ the constitution and laws of this state;

(B) the mineral estate in areas within tidewater limits, including islands, lakes, bays, and the bed of the sea which belong to the state;

(C) the mineral estate in river beds and channels; and

(D) land owned by the state or held in trust for the use and benefit of the state or of a department, board, or agency of the state.

SECTION 2. Section 32.002, Natural Resources Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (f) to read as follows:

(a) This chapter does not apply to:

(1) land dedicated by the constitution or a law of this state to The University of Texas System, land donated by a will or instrument in writing or otherwise to The University of Texas System, as trustee, for a scientific, educational, or other charitable or public purpose, or any other land under the control of the Board of Regents of The University of Texas System;

(2) land whose title is vested in the state for the use and benefit of any part of The Texas A&M University System or land under the control of the Board of Regents of The Texas A&M University System;

(3) minerals subject to lease under Subchapter F, Chapter 52, ~~[of this code,]~~ commonly known as the Relinquishment Act, and Subchapters B and C, Chapter 53 ~~[, of this code];~~

(4) ~~[oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley, which is located in a producing area, unless the oil or gas is leased for the specific purpose of drilling a horizontal well;~~

~~[(5) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley if the Texas Transportation Commission has determined that such right of way is no longer needed for use by citizens as a road pursuant to Section 202.021, Transportation Code;~~

~~[(6)]~~ land owned by the ~~[Texas]~~ Parks and Wildlife Department; or

(5) ~~[(7)]~~ land owned by the Texas Board of Criminal Justice.

(a-1) Oil and gas underlying land that is owned by this state, was acquired to construct or maintain a highway, road, street, or alley, is located in a producing area, and is subject to an oil or gas lease may be pooled or unitized only prospectively and is subject to Sections 32.201, 32.202, and 32.203.

(b) For purposes of Subsection (a-1) ~~Subsection (a)(4) of this section~~, land is located in a producing area if the closest boundary line of the surface of such land is within 2,500 feet of a well capable of producing oil or gas in paying quantities ~~as of January 1, 1985~~.

(f) This chapter does not authorize drilling or other operations on the surface of land during the period in which the land is used by this state as a highway, road, street, or alley.

SECTION 3. Subchapter A, Chapter 32, Natural Resources Code, is amended by adding Section 32.003 to read as follows:

Sec. 32.003. APPLICATION OF SUNSET ACT. The School Land Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2017.

SECTION 4. Section 32.016(a), Natural Resources Code, is amended to read as follows:

(a) When necessary, the board shall meet on the first and third Tuesdays of each month at a time and location to be designated by the board ~~in the land office~~.

SECTION 5. Section 32.061, Natural Resources Code, is amended to read as follows:

Sec. 32.061. BOARD'S GENERAL DUTIES. Except as provided by Subchapter G, Chapter 51, of this code, the board shall:

(1) set the dates to open received bids for the sale of ~~surveyed~~ land ~~[dedicated to the permanent school fund]~~, for the lease of land for prospecting or exploring for, mining, producing, storing, caring for, transporting, preserving, selling, or disposing of oil, gas, or other minerals leased under this chapter, and for the commitment of land to a contract for development;

(2) determine the prices and set the terms and conditions under ~~[of the contract for]~~ which land shall be sold, leased, or committed to a contract for development;

(3) consult with the president, chairman, or other head of the department, board, or agency, as applicable, or with the representative of the head, on each matter before the board that affects land owned or held in trust for the use and benefit of a department, board, or agency of the state; and

(4) perform any other duties which may be required by law.

SECTION 6. Section 32.102, Natural Resources Code, is amended to read as follows:

Sec. 32.102. LIST OF LAND. From time to time as requested by the board, the commissioner shall furnish the board a list of land areas subject to the provisions of this chapter.

SECTION 7. Section 32.105, Natural Resources Code, is amended to read as follows:

Sec. 32.105. DATE FOR OPENING BIDS. The date for opening bids for the sale, lease, or commitment to a contract for development of land shall be:

(1) the first or third Tuesday of a [the] month in which the board meets;
or

(2) any date on which the board has a special meeting.

SECTION 8. Sections 32.107(a), (b), and (c), Natural Resources Code, are amended to read as follows:

(a) The board shall publish notice that the board will receive bids for the sale, lease, or commitment to a contract for development of land in at least three issues of at least four daily newspapers or other publications, two of which may be Internet-based journals, trade publications, newsletters, or similar news media, that are, in the opinion of the commissioner, likely to reach the public interested in responding to the notice of sale, lease, or commitment to a contract for development.

(b) The notice shall be published at least 30 days before the date the bids are due ~~[advertised to be opened].~~

(c) The notice shall state that land is to be offered for sale, lease, or commitment to a contract for development on a certain date and at a certain time and the method of the sale, lease, or commitment to a contract for development and shall give notice of how ~~[that]~~ a person may obtain additional information concerning [publications from the land office that describe] the land offered for sale, lease, or commitment to a contract for development.

SECTION 9. Sections 32.110(a) and (c), Natural Resources Code, are amended to read as follows:

(a) On land sales and mineral leases made by the board, the purchaser or bidder is required to pay by separate check an amount equal to one and one-half percent of the bid or sale amount payable to the commissioner as a special fee. The board may waive the special fee on land sales to any state agency, board, commission, political subdivision, or other governmental entity.

(c) Failure to pay the special fee shall not void a bid, but the commissioner shall demand payment of the fee before accepting the bid and completing the transaction ~~[a lease is issued to the best bidder. If the best bidder fails or refuses to make the payment within 30 days after demand by the commissioner, the bidder is not entitled to a sale of or a lease on the tract covered by that bid and the cash bonus shall be automatically forfeited to be deposited by the commissioner in the State Treasury to the credit of the permanent school fund or the appropriate special mineral fund. The board, at its option, may offer the tract for sale or lease to the next best bidder under the same terms as submitted by and as would have been granted to the best bidder].~~

SECTION 10. Section 32.203, Natural Resources Code, is amended to read as follows:

Sec. 32.203. COMPENSATORY ROYALTY. Compensatory royalty shall be paid to the state on any lease offered and granted under Section 32.201 of this code if the lease is not being held by production on the tract, by production from a pooled unit, or by payment of shut-in royalties in accordance with the terms of the lease, and if oil or gas is sold and delivered in paying quantities from a well located within 2,500 feet of the leased premises and completed in a producible reservoir underlying the state lease or in any case in which drainage is occurring. Such compensatory royalty shall be paid at the royalty rate provided in the state lease based on the value of production from the well as provided in the lease on

which such well is located. The compensatory royalty shall be paid in the same proportion that the acreage of the state lease has to the acreage of the state lease plus the acreage of a standard ~~the~~ proration unit under statewide field rules or, if applicable, the special field rules adopted by the Railroad Commission of Texas for the field in which ~~surrounding~~ the ~~draining~~ well has been completed. The compensatory royalty is to be paid monthly to the commissioner on or before the last day of the month next succeeding the month in which the oil or gas is sold and delivered from the well ~~causing the drainage or from the well located within 2,500 feet of the leased premises and completed in a producible reservoir under the state lease~~. Notwithstanding anything herein to the contrary, compensatory royalty payable under this section shall be no less than an amount equal to double the annual rental payable under the state lease. Payment of compensatory royalty shall maintain the state lease in force and effect for so long as such payments are made as provided in this section.

SECTION 11. Subchapter F, Chapter 32, Natural Resources Code, is amended by adding Section 32.207 to read as follows:

Sec. 32.207. ADVERTISING FOR BIDS; POOLING. Section 52.076 applies to oil and gas under land owned by this state that was acquired to construct or maintain a highway, road, street, or alley in the same manner as that section applies to oil and gas under a riverbed or channel.

SECTION 12. Section 32.253, Natural Resources Code, is amended to read as follows:

Sec. 32.253. PURPOSE OF TRADE. Land dedicated to or acquired for the use and benefit of the permanent school fund may be traded to:

- (1) aggregate sufficient acreage of contiguous land to create a manageable unit;
- (2) acquire land having unique biological, geological, cultural, or recreational value; ~~or~~
- (3) create a buffer zone for the enhancement of already existing public land, facilities, or amenities; or
- (4) acquire land for the use and benefit of the permanent school fund as determined by the board to be in the best interest of the fund.

SECTION 13. Section 51.001, Natural Resources Code, is amended by amending Subdivision (8) and adding Subdivision (12) to read as follows:

(8) "Surveyed land" means all or part of any tract of land surveyed either on the ground or by protraction and dedicated to or acquired on behalf of the public school fund which is unsold and for which field notes are on file in the land office or that may be delineated on the maps of that office as such.

(12) "Sovereign land" means land that has not been sold and severed by the sovereign.

SECTION 14. The heading to Section 51.013, Natural Resources Code, is amended to read as follows:

Sec. 51.013. CLASSIFICATION ~~[AND VALUATION]~~ OF LAND.

SECTION 15. Section 51.013(b), Natural Resources Code, is amended to read as follows:

(b) After the classification [~~and determination of market value~~] is entered on the records of the land office, no further action needs to be taken by the commissioner and no notice is required to be given to the county clerk for the classification [~~and determination of market value~~] to be effective.

SECTION 16. Section 51.014, Natural Resources Code, is amended to read as follows:

Sec. 51.014. RULES. [~~(a)~~] The commissioner may adopt rules necessary to carry out the provisions of this chapter and may alter or amend the rules to protect the public interest.

~~[(b) Before rules are adopted under Subsection (a) of this section, the commissioner shall submit the rules to the governor for his approval.]~~

SECTION 17. Sections 51.052(e), (f), (g), (i), and (k), Natural Resources Code, are amended to read as follows:

(e) The owner of land that surrounds [~~land in~~] a tract of land approved for sale by the board shall have a preference right to purchase the tract before the land is made available for sale to any other person, provided the person having the preference right pays not less than the market value for the land as determined by the board and the board finds use of the preference to be in the best interest of the state. The board shall adopt rules to implement this preference right.

(f) If the surrounding land is owned by more than one person, the owners of land with a common boundary with a tract of land approved [~~1,200 acres or less that is~~] for sale by the board shall have a preference right to purchase the tract before it is made available to any other person, provided the person with the preference right pays not less than the market value of the land as determined by the board and the board finds use of the preference to be in the best interest of the state. The board shall adopt rules to implement this preference right.

(g) If land is located within the boundaries of or adjacent to any state park, refuge, natural area, or historical site subject to the management and control of the Parks and Wildlife Department, the department has a preference right to purchase the land before it is made available [~~for sale~~] to any other person. A sale to the department under this section may not be for less than the market value of the land, as determined by the board.

(i) If no bid meeting minimum requirements is received for a tract of land offered at a sealed bid sale under Subchapter D of Chapter 32, or if the transaction involves commercial real estate and the board determines that it is in the best interest of the permanent school fund, the asset management division of the land office may solicit proposals or negotiate a sale, exchange, or lease of the land to any person. [~~The asset management division may contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in a transaction under this subsection.~~] The board must approve any negotiated sale, exchange, or lease of any land under this section.

(k) The [~~If an award of a bid under this section does not result in a final transaction, the~~] asset management division of the land office may contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in any sale, lease, or exchange of land under this subchapter [~~the real estate transaction~~].

SECTION 18. Section 51.056, Natural Resources Code, is amended to read as follows:

Sec. 51.056. APPLICATION OR REQUEST TO PURCHASE LAND. ~~[(a)]~~ A person who wants to purchase public school land shall submit to the commissioner a ~~[separate]~~ written application or request in a form designated by the commissioner ~~[for each tract].~~

~~[(b) Each application shall:~~

~~[(1) designate the land to be purchased;~~

~~[(2) state the bid offered;~~

~~[(3) include an affidavit disclosing the names of all persons or entities either directly or indirectly interested in the purchase of the land.~~

~~[(c) The sale of the land is effective from the date of the receipt and filing of the application, affidavit, obligation, and the payment of the initial portion of the price offered.~~

~~[(d) The application to purchase and the notice of award shall state that the land is sold without condition of settlement and with a reservation of minerals, as determined by the board.]~~

SECTION 19. Section 51.066, Natural Resources Code, is amended to read as follows:

Sec. 51.066. LAND ~~[NOTICE OF]~~ AWARD. (a) The commissioner shall prepare and issue a land ~~[notice of]~~ award for each tract of sovereign land sold.

(b) Each land ~~[notice of]~~ award shall be appropriately numbered and shall be worded in a manner that will constitute a receipt for the first or full payment after it is signed by the commissioner.

(c) One copy of the land ~~[notice of]~~ award shall be retained in the land office and the other copy shall be sent to the purchaser.

SECTION 20. The heading to Section 51.070, Natural Resources Code, is amended to read as follows:

Sec. 51.070. UNPAID PRINCIPAL ~~[AND INTEREST]~~ ON PUBLIC SCHOOL LAND SALES.

SECTION 21. Sections 51.070(a) and (b), Natural Resources Code, are amended to read as follows:

(a) Unpaid and delinquent principal ~~[and interest]~~ on sales of public school land shall bear interest at a rate set by the board, which principal and interest shall be payable at the times and on such terms as are established by the board ~~[by rule or by contract].~~

(b) No patent may be issued for any public school land until all ~~[unpaid]~~ principal, accrued ~~[and compounded]~~ interest, late charges, and other fees and expenses are ~~[is]~~ paid in full ~~[to the time of issuing the patent].~~

SECTION 22. Section 51.071, Natural Resources Code, is amended to read as follows:

Sec. 51.071. FORFEITURE OF LAND. (a) If principal, accrued ~~[and]~~ interest, late charges, and other fees and expenses on a sale of sovereign land ~~are~~ ~~[is]~~ not paid when due as required by the terms set by the board, the land is

subject to forfeiture by the commissioner by entry on the file ~~[wrapper]~~ containing the papers "Land Forfeited" or similar words, the date of the forfeiture, and the official signature of the commissioner.

(b) After the entry is made on the file ~~[wrapper]~~, the land and all payments that have been made for it are forfeited to the state, and the land may be resold in accordance with the provisions of this subchapter ~~[offered for sale on a subsequent sale date]~~.

SECTION 23. Section 51.073, Natural Resources Code, is amended to read as follows:

Sec. 51.073. CLASSIFICATION AND SALE OF LEASED AND FORFEITED LAND. ~~(a)~~ Before it is sold, the commissioner shall classify and determine the market value of land on which leases have expired and land forfeited to the state.

~~[(b) Except as provided in Section 51.064 of this code, no land may be sold until it is advertised.]~~

SECTION 24. Section 51.086(a), Natural Resources Code, is amended to read as follows:

(a) All sales of escheated land that is a part of the permanent school fund must be made ~~[to the highest bidder]~~ at a price that may not be less than ~~[the greater of \$2.50 an acre or]~~ the minimum price set by the court under Section 71.107, Property Code, and in the same manner as the sale of public school land as provided by this chapter.

SECTION 25. Sections 51.172(4) and (7), Natural Resources Code, are amended to read as follows:

(4) "Necessary party" means:

(A) an applicant or good-faith claimant whose present legal interest in the surface or mineral estate of the land claimed to be vacant may be adversely affected by a vacancy determination;

(B) a person who asserts a right to or who claims an interest in land claimed to be vacant;

(C) a person who asserts a right to or who claims an interest in ~~[land claimed to be vacant or in]~~ land adjoining land claimed to be vacant as shown in the records of the land office or the county records, including tax records, of any county in which all or part of the land claimed to be vacant is located;

(D) a person whose name appears in the records described by Paragraph (C); or

(E) an attorney ad litem appointed under Section 51.180.

(7) "Vacancy application" means a form submitted to the commissioner by an applicant to:

(A) initiate a determination by the commissioner whether land claimed to be vacant is vacant; and

(B) purchase ~~[vacant land]~~ or

~~[(C)]~~ lease vacant land.

SECTION 26. Section 51.177(a), Natural Resources Code, is amended to read as follows:

(a) Not later than the 45th day after the date the commissioner accepts ~~[applicant files]~~ the duplicate copies as properly filed by the applicant ~~[with the commissioner]~~ as provided by Section 51.176(f), the commissioner shall:

- (1) determine whether the vacancy application is administratively complete; and
- (2) provide to the applicant the notice required by this section.

SECTION 27. Section 51.180, Natural Resources Code, is amended to read as follows:

Sec. 51.180. ATTORNEY AD LITEM. (a) If the ~~[The]~~ applicant cannot ~~[must]~~ provide evidence to the commissioner to establish the applicant's ownership of all interests as defined by Section 51.172 in the land surrounding the land claimed to be vacant, the commissioner shall investigate the ownership interests of the land claimed to be vacant and the surrounding land to ensure that all necessary parties have been identified and located.

(b) The investigation must conclude not later than the 60th day after the application commencement date. If the investigation yields any ~~[applicant fails to provide sufficient]~~ evidence that a necessary party may not have been identified and located, as determined by the commissioner, the commissioner shall, not later than the 30th day after the conclusion of the investigation ~~[application commencement date]~~, appoint an attorney ad litem to ~~±~~

~~[(1)] identify and locate all necessary parties ~~±~~ and~~

~~[(2) represent the interests of any necessary party that has not been located].~~

(c) The commissioner shall provide the attorney ad litem with all documents submitted by the applicant and the results of the investigation to identify necessary parties, and the attorney ad litem shall search public land records and other available records to identify and locate necessary parties.

(d) If any necessary party cannot be located, the attorney ad litem shall represent the interests of that necessary party.

SECTION 28. Sections 51.181(a) and (b), Natural Resources Code, are amended to read as follows:

(a) Not later than the 30th day after the application commencement date, and at any time after that date that the commissioner considers it necessary to notify an identified necessary party, the commissioner shall provide to each necessary party identified and located as of that date a written notice that:

(1) informs the necessary party that a vacancy application has been filed;

(2) states the application commencement date; and

(3) includes:

(A) a copy of the vacancy application and any attachments; and

(B) a form for requesting subsequent notices regarding the application.

(b) If the attorney ad litem is unable to locate an identified ~~[identify each]~~ necessary party, the attorney ad litem shall notify the commissioner in writing, and the commissioner ~~[applicant]~~ shall provide notice required under this section by publication in the same manner prescribed by the Texas Rules of Civil Procedure.

SECTION 29. Section 51.187(a), Natural Resources Code, is amended to read as follows:

(a) If the commissioner has not issued a final order with a finding of "Not Vacant Land" on or before the first anniversary of the application commencement date and one or more exceptions have been filed under Section 51.182(a) or 51.186(b), the commissioner shall order a hearing to determine if a vacancy exists. A hearing under this subchapter:

(1) shall be held not later than the 60th day after the date the hearing is ordered;

(2) shall be conducted as a contested case hearing subject to Chapter 2001, Government Code; and

(3) may be waived by written agreement of all necessary parties and the commissioner.

SECTION 30. Section 51.188(a), Natural Resources Code, is amended to read as follows:

(a) At any time during or after an investigation of or hearing regarding a vacancy application, the commissioner may determine that land claimed to be vacant is not vacant and issue a final order with a finding of "Not Vacant Land[-]" or an order finding a vacancy if a hearing is not required under Section 51.187.

SECTION 31. Section 51.194, Natural Resources Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A good-faith claimant who has been notified by the commissioner that a vacancy exists under this subchapter has a preferential right to purchase or lease the interest claimed in the land before the land was declared vacant. The preferential right may be exercised after a final judicial determination or after the commissioner's final order and the period for filing an appeal has expired.

(a-1) If a good-faith claimant does not apply to purchase or lease the interest before the later of the 121st day after the date the commissioner's order becomes final or the 60th day after the date of the final judicial determination of an appeal under this subchapter, then the good-faith claimant's preferential right expires.

(a-2) If a good-faith claimant does not close a transaction to purchase or lease the interest before the 121st day after the date the terms and conditions are determined by the board, then the good-faith claimant's preferential right expires.

SECTION 32. Section 61.021, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

(c) Any requirement to keep a beach open for vehicular traffic under this subchapter or rules adopted under this subchapter does not apply to a beach or segment of a beach within 3,100 feet of a natural science laboratory in a county with a population of 40,000 or less.

SECTION 33. The following provisions of the Natural Resources Code are repealed:

- (1) Section 32.103;
- (2) Section 51.052(a);
- (3) Section 51.057;
- (4) Section 51.058;
- (5) Section 51.059;
- (6) Section 51.060;
- (7) Section 51.061;
- (8) Section 51.062;
- (9) Section 51.063;
- (10) Section 51.064;
- (11) Section 51.068;
- (12) Section 51.084; and
- (13) Section 51.086(b).

SECTION 34. Sections 32.002 and 32.203, Natural Resources Code, as amended by this Act, and Section 32.207, Natural Resources Code, as added by this Act, do not authorize:

(1) any person, including this state or a local government, to claim damages relating to production from a legally permitted and legally producing well the drilling of which was commenced before the effective date of this Act; or

(2) a state or local taxing authority to reallocate liability for severance or ad valorem taxes or increase the amount of those taxes imposed based on production from or the value attributable to production from a legally permitted and legally producing well the drilling of which was commenced before the effective date of this Act.

SECTION 35. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Orr moved to adopt the conference committee report on **HB 3461**.

The motion to adopt the conference committee report on **HB 3461** prevailed by (Record 1641): 143 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory

Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Gutierrez.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Paxton.

STATEMENT OF VOTE

I was shown voting no on Record No. 1641. I intended to vote yes.

Gutierrez

HB 2555 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2555, A bill to be entitled An Act relating to the length of time certain property acquired by a charitable organization to provide low-income housing may be exempted from ad valorem taxation.

Representative Hilderbran moved to discharge the conferees and concur in the senate amendments to **HB 2555**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2555** prevailed by (Record 1642): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Driver.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Isett.

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

Amend **HB 2555** by adding the following SECTION to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 11.184, Tax Code, is amended by amending Subsection (c) and adding Subsections (l), (m), and (n) to read as follows:

(c) A ~~[If approved under Subsection (b), a]~~ qualified charitable organization is entitled to an exemption from taxation of:

(1) the buildings and other real property and the tangible personal property that:

(A) are owned by the organization; and

(B) except as permitted by Subsection (d), are used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(2) the real property owned by the organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation;

and

(ii) is designed and intended to be used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18.

(l) Notwithstanding the other provisions of this section, a corporation that is not a qualified charitable organization is entitled to an exemption from taxation of property under this section if:

(1) the corporation is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(2) of that code;

(2) the corporation holds title to the property for, collects income from the property for, and turns over the entire amount of that income, less expenses, to a qualified charitable organization; and

(3) the qualified charitable organization would qualify for an exemption from taxation of the property under this section if the qualified charitable organization owned the property.

(m) Before a corporation described by Subsection (l) may submit an application for an exemption under this section, the qualified charitable organization for which the corporation holds title to the property must apply to the comptroller for the determination described by Subsection (e) with regard to the qualified charitable organization. The application for the determination must also include an application to the comptroller for a determination of whether the corporation meets the requirements of Subsections (l)(1) and (2). The corporation shall submit with the application for an exemption under this section a copy of the determination letter issued by the comptroller. The chief appraiser shall accept the copy of the letter as conclusive evidence of the matters described by Subsection (h) as well as of whether the corporation meets the requirements of Subsections (l)(1) and (2).

(n) Notwithstanding Subsection (k), in order for a corporation to continue to receive an exemption under Subsection (l) after the fifth tax year after the year in which the exemption is granted, the qualified charitable organization for which the corporation holds title to property must obtain a new determination letter and the corporation must reapply for the exemption.

(b) Section 11.184(b), Tax Code, is repealed.

(c) This section applies only to ad valorem taxes imposed for a tax year that begins on or after the effective date of this section.

(d) This section takes effect January 1, 2010.

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

Amend **HB 2555** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

HR 2963 - ADOPTED (by Eiland)

The following privileged resolution was laid before the house:

HR 2963

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 4102** (the disaster contingency fund and relief for school districts located in a disaster area), to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in SECTION 1 of the bill, in Section 418.073(c), Government Code, to read as follows:

(c) A state or ~~[agency,]~~ local government~~[, or other eligible]~~ entity that participates in disaster preparation or disaster recovery may request and receive funding from the disaster contingency fund to pay for[-

~~[(1) extraordinary] costs incurred by the state or local government entity in preparing for or recovering from [implementing preventive measures taken before or during an emergency; and~~

~~[(2) costs incurred in repairing damage suffered during] a disaster [for which:~~

~~[(A) the presiding officer of a municipal or county government has declared a local state of disaster for affected areas within the jurisdiction of the municipality or county; and~~

~~[(B) the governor has also declared a state of disaster for the affected county or counties].~~

Explanation: This change is necessary to maintain the ability of a state or local government entity to receive reimbursement from the disaster contingency fund for costs incurred by the entity in preparing for disasters.

HR 2963 was adopted by (Record 1643): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Leibowitz.

HB 4102 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Eiland submitted the following conference committee report on **HB 4102**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
 President of the Senate

The Honorable Joe Straus
 Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4102** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona	Eiland
Ellis	McCall
Patrick	Ortiz
Shapiro	Ritter
Williams	Taylor
On the part of the senate	On the part of the house

HB 4102, A bill to be entitled An Act relating to the disaster contingency fund and relief for school districts located in a disaster area.

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

SECTION 1. Section 418.073(c), Government Code, as added by Chapter 1250 (**HB 2694**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(c) A state or ~~[agency]~~ local government~~[-, or other eligible]~~ entity that participates in disaster preparation or disaster recovery may request and receive funding from the disaster contingency fund to pay for[-

~~[(1) extraordinary] costs incurred by the state or local government entity in preparing for or recovering from [implementing preventive measures taken before or during an emergency; and~~

~~[(2) costs incurred in repairing damage suffered during] a disaster [for which:~~

~~[(A) the presiding officer of a municipal or county government has declared a local state of disaster for affected areas within the jurisdiction of the municipality or county; and~~

~~[(B) the governor has also declared a state of disaster for the affected county or counties].~~

SECTION 2. Section 418.073, Government Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) A state or local government entity or other eligible entity that receives funding from the disaster contingency fund to pay for costs associated with disaster recovery and that subsequently receives reimbursement from the federal government, an insurer, or another source for those same costs shall reimburse the disaster contingency fund for the reimbursed amounts. In developing rules and procedures under Subsection (d) the governor's division of emergency management shall prescribe accounting and other procedures necessary to efficiently and effectively implement this subsection.

(g) Money in the disaster contingency fund may be used to pay for a disaster risk financing instrument using a parametric index based on affected population to leverage available funds and receive proceeds greater than appropriated amounts to pay for extraordinary expenses.

(h) Money in the disaster contingency fund may be used to provide to a local government entity that is suffering financial hardship as a result of a disaster declared under this chapter funds for the purpose of providing local matching funds for Federal Emergency Management Agency qualifying projects.

SECTION 3. Subchapter D, Chapter 41, Education Code, is amended by adding Section 41.0931 to read as follows:

Sec. 41.0931. DISASTER REMEDIATION COSTS. (a) This section applies only to a district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, and that incurs disaster remediation costs as a result of the disaster.

(b) Subject to Subsection (c), for the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster, the total amount required to be paid by a district for attendance credits under Section 41.093 is reduced by the amount of any disaster remediation costs that the district pays during that period and does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement.

(b-1) For purposes of determining the reduction under this section to which a district is entitled for the 2009-2010 school year, disaster remediation costs paid by the district after September 1, 2008, are included if the costs meet all other requirements imposed by this section. This subsection expires September 1, 2010.

(c) To receive a reduction under this section, a district must provide the commissioner with acceptable documentation of disaster remediation costs paid by the district.

(d) The commissioner shall adopt rules necessary to implement this section, including rules defining "disaster remediation costs" for purposes of this section and specifying the type of documentation required under Subsection (c).

(e) Notwithstanding any other provision of this section, the commissioner may permit a district to use funds available to the district as a result of a reduction under this section to pay the costs of replacing a facility instead of repairing the facility. The commissioner shall ensure that a district that elects to replace a facility does not receive a reduction that exceeds the lesser of:

(1) the amount that would be available to the district if the facility were repaired; or

(2) the amount necessary to replace the facility.

SECTION 4. Subchapter A, Chapter 42, Education Code, is amended by adding Section 42.0051 to read as follows:

Sec. 42.0051. AVERAGE DAILY ATTENDANCE FOR DISTRICTS IN DISASTER AREA. (a) From funds specifically appropriated for the purpose or other funds available to the commissioner for that purpose, the commissioner shall adjust the average daily attendance of a school district all or part of which is

located in an area declared a disaster area by the governor under Chapter 418, Government Code, if the district experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

(b) The adjustment must be sufficient to ensure that the district receives funding comparable to the funding that the district would have received if the decline in average daily attendance reasonably attributable to the impact of the disaster had not occurred.

(c) The commissioner shall make the adjustment required by this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

(d) Section 42.005(b)(2) does not apply to a district that receives an adjustment under this section.

(e) A district that receives an adjustment under this section may not receive any additional adjustment under Section 42.005(d) for the decline in average daily attendance on which the adjustment under this section is based.

(f) For purposes of this title, a district's adjusted average daily attendance under this section is considered to be the district's average daily attendance as determined under Section 42.005.

SECTION 5. Subchapter E, Chapter 42, Education Code, is amended by adding Sections 42.2523 and 42.2524 to read as follows:

Sec. 42.2523. ADJUSTMENT FOR PROPERTY VALUE AFFECTED BY STATE OF DISASTER. (a) For purposes of Chapters 41 and 46 and this chapter, the commissioner shall adjust the taxable value of property of a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, as necessary to ensure that the district receives funding based as soon as possible on property values as affected by the disaster.

(b) The commissioner may fund adjustments under this section using funds specifically appropriated for the purpose or other funds available to the commissioner for that purpose.

(c) Any additional funding to which a school district is entitled as a result of the adjustment required by this section is in addition to the amount of funding to which the district is entitled under Section 42.2516(b).

(d) A decision of the commissioner under this section is final and may not be appealed.

Sec. 42.2524. REIMBURSEMENT FOR DISASTER REMEDIATION COSTS. (a) This section applies only to a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, and that incurs disaster remediation costs as a result of the disaster.

(b) During the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster, a district may apply to the commissioner for reimbursement of disaster remediation costs that the district pays during that period and does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement.

(b-1) A district may seek reimbursement of disaster remediation costs paid by the district on or after September 1, 2008. This subsection expires September 1, 2011.

(c) The commissioner may provide reimbursement under this section only if funds are available for that purpose as follows:

(1) reimbursement for a school district not required to take action under Chapter 41 may be provided from:

(A) amounts appropriated for that purpose, including amounts appropriated for those districts for that purpose to the disaster contingency fund established under Section 418.073, Government Code; or

(B) Foundation School Program funds available for that purpose, based on a determination by the commissioner that the amount appropriated for the Foundation School Program, including the facilities component as provided by Chapter 46, exceeds the amount to which districts are entitled under this chapter and Chapter 46; and

(2) reimbursement for a school district required to take action under Chapter 41 may be provided from funds described by Subdivision (1)(B) if funds remain available after fully reimbursing each school district described by Subdivision (1) for its disaster remediation costs.

(d) If the amount of money available for purposes of reimbursing school districts not required to take action under Chapter 41 is not sufficient to fully reimburse each district's disaster remediation costs, the commissioner shall reduce the amount of assistance provided to each of those districts proportionately. If the amount of money available for purposes of reimbursing school districts required to take action under Chapter 41 is not sufficient to fully reimburse each district's disaster remediation costs, the commissioner shall reduce the amount of assistance provided to each of those districts proportionately.

(e) A district seeking reimbursement under this section must provide the commissioner with adequate documentation of the costs for which the district seeks reimbursement.

(f) A district required to take action under Chapter 41:

(1) may, at its discretion, receive assistance provided under this section either as a payment of state aid under this chapter or as a reduction in the total amount required to be paid by the district for attendance credits under Section 41.093; and

(2) may not obtain reimbursement under this section for the payment of any disaster remediation costs that resulted in a reduction under Section 41.0931 of the district's cost of attendance credits.

(g) Amounts provided to a district under this section are in addition to the amount to which the district is entitled under Section 42.2516.

(h) The commissioner shall adopt rules necessary to implement this section, including rules defining "disaster remediation costs" for purposes of this section and specifying the type of documentation required under Subsection (e).

(i) Notwithstanding any other provision of this section, the commissioner may permit a district to use amounts provided to a district under this section to pay the costs of replacing a facility instead of repairing the facility. The commissioner shall ensure that a district that elects to replace a facility does not receive an amount under this section that exceeds the lesser of:

(1) the amount that would be provided to the district if the facility were repaired; or

(2) the amount necessary to replace the facility.

(j) This section does not require the commissioner to provide any requested reimbursement. A decision of the commissioner regarding reimbursement is final and may not be appealed.

SECTION 6. Section 44.0312, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other provision of this code, in the event of a catastrophe, emergency, or natural disaster affecting a school district, the board of trustees of the district may delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities under this subchapter if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Eiland moved to adopt the conference committee report on **HB 4102**.

The motion to adopt the conference committee report on **HB 4102** prevailed by (Record 1644): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Callegari; Frost.

STATEMENT OF VOTE

When Record No. 1644 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

HB 4817 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 4817, A bill to be entitled An Act relating to the creation of the Goodwater Municipal Utility District No. 1; providing authority to impose taxes and issue bonds; granting a limited power of eminent domain.

Representative Gattis moved to discharge the conferees and concur in the senate amendments to **HB 4817**.

The motion to discharge the conferees and concur in the senate amendments to **HB 4817** prevailed by (Record 1645): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Kolkhorst; Lewis.

Senate Committee Substitute

CSHB 4817, A bill to be entitled An Act relating to the creation of the Goodwater Municipal Utility District No. 1; providing authority to impose taxes and issue bonds; granting a limited power of eminent domain.

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

SECTION 1. Subtitle X, Title 6, Special District Local Laws Code, is amended by adding Chapter 11004 to read as follows:

CHAPTER 11004. GOODWATER MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11004.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Goodwater Municipal Utility District No. 1.

Sec. 11004.002. NATURE OF DISTRICT. The district is a combined powers district created under Section 59, Article XVI, Texas Constitution.

Sec. 11004.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 11004.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 11004.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 11004.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution;

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads; and

(3) Section 52-a, Article III, Texas Constitution, to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the district.

Sec. 11004.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

Sec. 11004.007. RELATION TO OTHER LAW. If any provision of the general law, including a provision incorporated by reference in this chapter, is in conflict or inconsistent with this chapter, this chapter prevails.

Sec. 11004.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 11004.009-11004.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 11004.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 11004.052, directors serve staggered four-year terms.

Sec. 11004.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act creating this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 11004.003;

or

(2) the fourth anniversary of the effective date of the Act creating this chapter.

(c) If permanent directors have not been elected under Section 11004.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 11004.003;

or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 11004.053-11004.100 reserved for expansion]SUBCHAPTER C. POWERS AND DUTIES

Sec. 11004.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 11004.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 11004.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 11004.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 11004.105. STREET REPAIR AND MAINTENANCE. (a) After the 10th anniversary of the effective date of the Act creating this chapter, the district, at the district's expense, shall repair and maintain any streets in the district.

(b) A district's repair and maintenance of streets under this section must meet all applicable construction standards and regulations of the City of Georgetown and Williamson County.

Sec. 11004.106. REGIONAL WASTE DISPOSAL POWERS AND DUTIES. The district has the powers and duties applicable to a district under Chapter 30, Water Code.

Sec. 11004.107. WASTEWATER TREATMENT FACILITY DESIGN APPROVAL. The district must obtain the approval of the Brazos River Authority for the design of any district wastewater treatment facility.

Sec. 11004.108. WASTEWATER SERVICE PROVIDERS. Only the Brazos River Authority or a provider approved by the Brazos River Authority may provide wastewater service in the district.

Sec. 11004.109. COMPLIANCE WITH FEBRUARY 2005 AGREEMENT. The district shall comply with the terms of the "Agreement Regarding Sewer Services Areas and Customers" among the Lower Colorado River Authority, the Brazos River Authority, the City of Georgetown, the City of Liberty Hill, and the Chisholm Trail Special Utility District dated February 1, 2005.

Sec. 11004.110. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if:

(1) the district has no outstanding bonded debt; and

(2) the district is not imposing ad valorem taxes.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act creating this chapter.

(d) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 11004.003 to confirm the district's creation.

(f) An order dividing the district shall:

(1) name each new district;

(2) include the metes and bounds description of the territory of each new district;

(3) appoint temporary directors for each new district or provide that the owner or owner of a majority of the assessed value of the real property in each new district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition; and

(4) provide for the division of assets and liabilities between or among the new districts.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 11004.003. A new district that is not confirmed is subject to dissolution under general laws.

(i) Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 11004.004 acts as municipal consent to the creation of any new district created under this section and to the inclusion of land in the new district.

(j) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

Sec. 11004.111. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 11004.112. LIBRARIES. The district may exercise the powers of a library district under Chapter 326, Local Government Code.

Sec. 11004.113. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. The district may exercise the powers of a development corporation under Chapter 505, Local Government Code.

Sec. 11004.114. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

- (1) a road project authorized by Section 11004.103; or
- (2) a recreational facility as defined by Section 49.462, Water Code.

[Sections 11004.115-11004.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 11004.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

- (1) revenue other than ad valorem taxes; or
- (2) contract payments described by Section 11004.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax, impose a sales or use tax, or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 11004.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 11004.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 11004.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 11004.154-11004.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 11004.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 11004.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 11004.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The Goodwater Municipal Utility District No. 1 initially includes all the territory contained in the following area:

TRACT ONE:

BEING 414.78 acres of the Burrell Eaves Survey, Abstract No. 216, in Williamson County, Texas. This tract includes part of the property (3 tracts) which were conveyed to J. N. Adkins, et ux. of record in Vol. 328, Pg. 331, Deed Records of Williamson County, Texas. This tract was surveyed on the ground in August of 2005, by William F. Forest, Jr., Registered Professional Land Surveyor No. 1847.

BEGINNING at an iron pin which was set at the Northeast fence corner of the J.N. Adkins tract called 34.2 acres (Tract 2) as described in Vol. 328, Pg. 331. This corner exists at the intersection of the South line of County Road 147 with the West line of County Road 234.

THENCE along or near the general line of an existing fence with the West line of County Road 234, setting iron pins as follows; S 14 deg. 12 min. 16 sec. W 1006.11 feet; S 14 deg. 51 min. 53 sec. W 992.84 feet; and S 13 deg. 33 min. 34 sec. W 416.78 feet to the Northeast corner of the 4 1/4 acre property conveyed to the Church of Christ at Strickland Grove by deed of record in Vol. 111, Pg. 510.

THENCE with the North line of the Church tract (upstream with the approximate center of Bee Branch), setting iron pins as follows; S 86 deg, 12 min. 17 sec. W 65.40 feet; S 68 deg. 12 min. 42 sec. W 142.18 feet; N 68 deg. 33 min. 45 sec. W 28.04 feet; N 41 deg. 48 min. 23 sec. W 175.27 feet; S 79 deg. 35 min. 37 sec. W 102.40 feet; and S 67 deg. 20 min. 59 sec. W 225.13 feet.

THENCE with the boundary of a 100 acre tract surveyed this date, S 88 deg. 21 min. 38 sec. W 1669.98 feet to an iron pin set; and S 31 deg. 30 min. 55 sec. W 1459.02 feet to an iron pin set.

THENCE with the North line of State Highway 195, along or near the general line of an existing fence, finding concrete right-of-way markers, N 58 deg. 29 min. 05 sec. W 252.06 feet; N 58 deg. 28 min. 23 sec. W 2000.17 feet; and N 58 deg. 29 min. 43 sec. W 289.47 feet to an iron pin found.

THENCE with the East boundary of the Crisanto Perez property described in Vol. 1470, pg. 298, along or near the general line of an existing fence, N 23 deg. 39 min. 06 sec. W 2206.68 feet to a pipe post found.

THENCE with the boundary of County Road 147, along or near the general line of an existing fence setting iron pins as follows; N 69 deg. 45 min. 29 sec. E 422.90 feet; N 69 deg. 55 min. 48 sec. E 1885.44 feet; N 70 deg. 04 min. 45 sec.

E 2297.59 feet; N 87 deg. 50 min. 55 sec. E 59.60 feet; S 19 deg. 47 min. 36 sec. E 1977.28 feet; and N 70 deg. 44 min. 56 sec. E 1774.08 feet to the POINT OF BEGINNING.

TRACT TWO:

A tract or parcel of land containing 4.988 acres of land out of the Burrell Eaves Survey, Abstract No. 216, Williamson County, Texas, being all of a called 4.99 acre tract conveyed to the William Erwin Kemp and Margaret Elizabeth Kemp Trust recorded under Document No. 2001006723 of the Official Public Records Of Williamson County, Texas, said 4.988 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found at the most westerly corner of the herein described tract, being a southerly corner of said Third Tract, a residue of a 140.8 acre tract conveyed to J.N. Adkins, et ux recorded in Volume 328, Page 331 of the Deed Records of Williamson County, Texas and lying in the northeasterly right-of-way line of Highway 195;

Thence, North $50^{\circ}55'10''$ East, along an interior line of said Third Tract, a distance of 467.27 feet to a 1/2 inch iron rod found at the most northerly corner of the herein described tract;

Thence, South $33^{\circ}00'00''$ East (Bearing Basis), along an interior line of said Third Tract, a distance of 707.49 feet to a 1/2 inch iron rod found at the most east corner of the herein described tract and lying in the northerly right-of-way line of County Road 143;

Thence, South $70^{\circ}37'00''$ West, along the northerly right-of-way line of said County Road 143, a distance of 147.18 feet to a 1/2 inch iron rod set at an angle point of the herein described tract;

Thence, South $73^{\circ}57'48''$ West, continuing along the northerly right-of-way line of said County Road 143, a distance of 60.48 feet to a 1/2 inch iron rod found at the most southerly corner of the herein described tract, being in the northeasterly right-of-way line of said Highway 195 and being the beginning of a curve to the left;

Thence, along the northeasterly right-of-way line of said Highway 195 along said curve to the left through a central angle of $02^{\circ}12'49''$ to a 1/2 inch iron rod set for a point of tangency, said curve having a radius of 8235.11 feet, an arc length of 318.14 feet, and a long chord bearing of North $56^{\circ}00'26''$ West, 318.12 feet;

Thence, North $57^{\circ}01'00''$ West, continuing along the northeasterly right-of-way line of said Highway 195, a distance of 342.54 feet to the POINT OF BEGINNING, containing 4.988 acres of land.

TRACT THREE:

Being 1.00 acre of the Burrell Eaves Survey, Abstract No. 261, in Williamson County, Texas, part of a 103 acre tract which is described in Vol. 757, Page 461, Deed Records of Williamson County, Texas. Surveyed on the ground in October of 1984, by W.F. Forest, Registered Public Surveyor No. 101.

BEGINNING at an iron pin set about 1 foot North of a fence in the North line of County Road 147, 35 feet wide. A nail set by the Southeast fence corner of the said 103 acre tract bears N $72^{\circ}07'$ E 251.03 feet.

THENCE S $72^{\circ}07'$ W 150.0 feet to set an iron pin.

THENCE N 17°53" W 290.4 feet to set an iron pin.
THENCE N 72°07' E 150.0 feet to set an iron pin.
THENCE S 17°53' E 290.4 feet to the POINT OF BEGINNING.

TRACT FOUR:

Being 5.00 acres of land located in the Burrell Eaves Survey, Abstract No. 216, Williamson County, Texas, being out of and part of that certain 103 acre tract as recorded in document no. 2002078621, Official Public Records of Williamson County, Texas, (O.P.R.W.C.T.), being the same 5.00 acres conveyed to Carl Satterlee, et ux by deed recorded in Document No. 2001019450, O.P.R.W.C.T., and being more particularly described by metes and bounds as follows: (all bearings recited herein ARE BASED ON THE MONUMENTED NORTH LINE OF THE SAID 103 ACRES);

BEGINNING, at a 1/2" iron rod found for the southeast corner of the said 5.00 acres, being in a southerly line of the said 103 acres and being in the north right-of-way line of County road 147;

THENCE, S 70°36'46" W, along said north right-of-way line, a distance of 466.67 feet to a 1/2" iron rod found for the southwest corner herein;

THENCE, N 19°23'51" W, departing said north right-of-way line, a distance of 466.75 feet to a 1/2" iron rod found for the northwest corner herein;

THENCE, N 70°35'54" E, a distance of 466.62 feet to a 1/2" iron rod found for the northeast corner herein;

THENCE, S 19°24'14" E, a distance of 466.86 feet to the POINT OF BEGINNING containing 5.00 acres of land, more or less.

TRACT FIVE:

Being 85.237 acres of land located in the Burrell Eaves Survey, Abstract No. 216, Williamson County, Texas, said tract being all of that certain called 103 acre tract of land conveyed to Earline D. Ischy by warranty deed recorded in Document No. 2002078621, Official Public Records of Williamson County, Texas, (O.P.R.W.C.T.), save and except the following certain tracts of land: that certain 4.127 acre tract conveyed to Kay R. & Alvy A. Byrd In Document No. 2003002085 (O.P.R.W.C.T.), that certain 1.00 acre tract of land conveyed to Gordon Crum & Joann Crum by warranty deed recorded in Volume 1104, Page 337, Official Records of Williamson County, Texas, (O.R.W.C.T.), that certain 5.00 acre tract conveyed to Adkins Land Development, L.P. in Document No. 2006054629 (O.P.R.W.C.T.), that certain 5.00 acre tract conveyed to Louis F. Ischy III & Sheila J. Ischy in Document No. 2001040530 (O.P.R.W.C.T.), and that certain 1.00 acre tract conveyed to Bruce Levens in Document No. 2004072477 (O.P.R.W.C.T.), said 85.237 acre tract being more particularly described by metes and bounds as follows: (ALL BEARINGS RECITED HEREIN ARE BASED ON THE MONUMENTED NORTH LINE OF THE SAID 103 ACRES);

COMMENCING for reference, at a 1/2" iron rod found at the northwest corner of said 103 acre tract, said point being the common South corner of those certain 5.0 acre and 27.39 acre tracts conveyed to Darren Barker by deeds recorded in Volume 1415, Page 344 (O.R.W.C.T.), and Document No. 2006011593 (O.P.R.W.C.T.), the northwest corner of that certain 4.127 acre tract of land

conveyed to Kay R. Byrd and Alvy A. Byrd by deed recorded in Document No. 2003002085 (O.P.R.W.C.T.), and being an ell turn in the northeasterly right-of-way line of County Road 147;

THENCE, N69°54'25"E, a distance of 341.99 feet to a nail found in a fence post at the southeast corner of said 27.39 acre Barker tract, same being the southwest corner of that certain 38.66 acre tract of land conveyed to Richard Burson by deed recorded in Volume 498, Page 577 (O.R.W.C.T.), and N69°55'59"E, a distance of 19.57 feet, to an 1/2" iron rod found at the northeast corner of said Byrd tract, for the northwest corner and POINT OF BEGINNING;

THENCE, with the north line of said 103 acre tract, same being the South line of said Burson tract, as fenced and used upon the ground, the following three (3) courses numbered 1 through 3,

1. N69°53'00"E, a distance of 1566.04 feet to a capped 1/2" iron rod found (RPLS No. 4835), for an exterior angle point in the north line of the herein described tract,

2. S29°55'01"E, a distance of 225.22 feet to a 1/2" iron rod found, for an interior angle point in the north line of the herein described tract,

3. N70°02'20"E, a distance of 669.19 feet to a nail found in the west right-of-way line of County Road 234, for the northeast corner herein;

THENCE, following said right-of-way line, same being the east line of said 103 acre tract, as fenced and used upon the ground, the following five (5) courses numbered 1 through 5,

1. S01°11'54"E, a distance of 187.72 feet to a fence post, for an angle point,

2. S00°17'33"W, a distance of 144.21 feet to a fence post, for an angle point,

3. S02°33'16"W, a distance of 128.85 feet to a fence post, for an angle point,

4. S08°27'57"W, a distance of 469.22 feet to a fence post, for an angle point,

5. S10°32'20"W, 155.00 feet to a 1/2" iron rod set at northeast corner of that certain 1.00 acre tract of land conveyed to Bruce Levens by deed recorded in Document No. 2004072477 (O.P.R.W.C.T.), for an exterior ell corner in the east line of the herein described tract;

THENCE, leaving said right-of-way line, following the north, westerly, and south lines of said Levens tract, as fenced and used upon the ground, the following four (4) courses numbered 1 through 4,

1. N87°50'51"W, a distance of 149.83 feet to a capped 1/2" iron rod found (RPLS No. 4835) at the northwest corner of said Levens tract, for an interior angle point of the herein described tract,

2. S39°09'37"W, a distance of 131.89 feet to a 1/2" iron rod set, at an exterior angle point in the west line of said Levens tract, same being an interior angle point in the east line of the herein described tract,

3. S01°43'30"E, a distance of 113.40 feet to a capped 1/2" iron rod found (RPLS No. 4835), at the southwest corner of said Levens tract, for an interior ell corner in the east line of the herein described tract,

4. S84°17'48"E, a distance of 209.17 feet to a 1/2" iron rod set at the southeast corner of said Levens tract, said point being in the West right-of-way line of said County Road 234, for an exterior ell corner in the east line of the herein described tract;

THENCE, following said right-of-way line, same being the east line of said 103 acre tract, the following two (2) courses numbered 1 and 2;

1. S07°22'21"W, a distance of 407.91 feet to a fence post, for an angle point,

2. S07°42'02"W, a distance of 282.14 feet to a nail found in a fence post, at the northwest intersection of said County Road 234 and said County Road 147, said point being the southeast of said 103 acre tract, for the southeast corner herein;

THENCE, S70°35'27"W, following the north right-of-way line of said County Road 147, same being the South line of said 103 acre tract, a distance of 251.03 feet to a calculated point at the southeast corner of said 1.00 acre Crum tract, for an exterior ell corner in the south line of the herein described tract;

THENCE, the following three (3) courses numbered 1 through 3,

1. N19°24'33"W, with the east line of said Crum tract, a distance of 290.40 feet to a calculated point, at the northeast corner of said Crum tract, for an interior ell corner in the south line of the herein described tract,

2. S70°35'27"W, with the north line of said Crum tract, a distance of 150.00 feet to a calculated point at the northwest corner of said Crum tract, for an interior ell corner in the south line of the herein described tract,

3. S19°24'33"E, with the west line of said Crum tract, a distance of 290.40 feet to a calculated point at the southwest corner of said Crum tract, said point being in the north right-of-way line of said County Road 147, for an exterior ell corner in the south line of the herein described tract;

THENCE, S70°35'27"W, with the fenced right-of-way line, a distance of 650.48 feet to a 1/2" iron rod found at the southeast corner of that certain 5.00 acre tract of land conveyed to Adkins Land Development L.P, by Warranty Deed recorded in Document No. 2006054629 (O.P.R.W.C.T.), for an exterior ell corner in the south line of the herein described tract;

THENCE, leaving said right-of-way line, the following three (3) courses numbered 1 through 3,

1. N19°23'57"W, with the east line of said 5.00 acre tract, a distance of 466.86 feet to a 1/2" iron rod found at the northeast corner of said 5.00 acre tract, for an interior ell corner in the south line of the herein described tract,

2. S70°36'11"W, with the north line of said 5.00 acre tract, a distance of 466.62 feet to a 1/2" iron rod found at the northwest corner of said 5.00 acre tract, for an interior ell corner in the south line of the herein described tract,

3. S19°23'34"E, with the west line of said 5.00 acre tract, a distance of 466.75 feet to a 1/2" iron rod found at the southwest corner of said 5.00 acre tract, said point being in the north right-of-way line of said County Road 147, for an exterior ell corner in the south line of the herein described tract;

THENCE, with the fenced right-of-way line of said County Road 147, the following two (2) courses and distances numbered 1 and 2,

1. S71°33'31"W, a distance of 218.98 feet to a fence post, for an angle point,

2. S86°55'25"W, a distance of 29.45 feet to a fence post, said point being an ell turn in the northeasterly right-of-way line of said County Road 147, same being the southwest corner of said 103 acre tract, for the southwest corner herein; THENCE, with the west line of the herein described tract, the following seven (7) courses numbered 1 through 7,

1. N19°48'38"W, a distance of 933.55 feet to a 1/2" iron rod found at the southwest corner of that certain 5.00 acre tract of land conveyed to Louis Eschy III and Sheila J. Ischy by deed recorded in Document No. 2001040530 (O.P.R.W.C.T.), for an exterior ell corner in the west line of the herein described tract,

2. leaving said right-of-way line, N70°21'26"E, following the south line of said Ischy tract, a distance of 466.66 feet to a 1/2" iron rod found at the southeast corner of said Ischy tract, for an interior ell corner in the west line of the herein described tract,

3. N19°38'15"W, with the east line of said Ischy tract, a distance of 466.66 feet to a 1/2" iron rod found at the northeast corner of said Ischy tract, for an interior ell corner in the west line of the herein described tract,

4. S70°21'31"W, with the north line of said Ischy tract, a distance of 466.75 feet to a 1/2" iron rod found at the northwest corner of said Ischy tract, said point being in the east right-of-way line of said County Road 147, for an exterior ell corner in the west line of the herein described tract,

5. along said east right-of-way line, N19°37'05"W, a distance of 90.02 feet to a 1/2" iron rod found at the southwest corner of said 4.127 acre Byrd tract, for an exterior ell corner in the west line of the herein described tract,

6. leaving said right-of-way line, N69°41'13"E, with the south line of said Byrd tract, a distance of 360.68 feet to a fence post at the southeast corner of said Byrd tract, for an interior ell corner in the west line of the herein described tract,

7. N19°31'49"W, with the east line of said Byrd tract, a distance of 496.05 feet to the POINT OF BEGINNING containing 85.237 Acres Of Land.

TRACT SIX:

Being 100.00 acres of the Burrell Eaves Survey, Abstract No. 216, Williamson County, Texas. This property includes part of Tracts 1 and 3 which were conveyed to J.N. Adkins, et. ux. of record in Vol. 328, Pg. 331, Deed Records of Williamson County, Texas. This tract was surveyed on the ground in August of 2005, by William F. Forest, Jr., Registered Professional Land Surveyor No. 1847.

BEGINNING at an iron pin which was set at the Southeast fence corner of the J.N. Adkins tract called 140.8 acres (Tract 3) as described in Vol. 328, Pg. 331. This corner exists at the intersection of the West line of County Road 234 with the North line of County Road 143.

THENCE along or near the general line of an existing fence with the North line of County Road 143, S 70 deg. 03 min. 56 sec. W 1109.27 feet to an iron pin set.

THENCE with the boundary of a 4.99 acre tract which was conveyed to Kemp Trust as described in Doc. 2001006723; N 34 deg. 20 min. 49 sec. W 706.93 feet to an iron pin found; and S 49 deg. 32 min. 11 sec. W 467.33 feet to an iron pin found.

THENCE with the Northeast line of State Highway 195, along or near the general line of an existing fence, N 58 deg. 30 min. 09 sec. W 451.94 feet to a concrete right-of-way marker found; and N 58 deg. 29 min. 05 sec. W 747.32 feet to an iron pin set.

THENCE with the boundary of a 414.78 acre tract surveyed this date, N 31 deg. 30 min. 55 sec. E 1459.02 feet to an iron pin set; and N 88 deg. 21 min. 38 sec. E 1669.98 feet to an iron pin set.

THENCE with the boundary of the 4 1/4 acre tract conveyed to the Church of Christ at Strickland Grove as described in Vol. 111, Pg. 510, S 07 deg. 43 min. 05 sec. E 283.91 feet to an iron pin set; and N 87 deg. 56 min. 23 sec. E 488.74 feet to a steel cotton spindle set.

THENCE with the West line of County Road 234, along or near the general line of an existing fence, setting iron pins at bends as follows: S 23 deg. 07 min. 23 sec. W 842.18 feet; S 16 deg. 01 min. 02 sec. W 69.58 feet; S 01 deg. 17 min. 24 sec. W 21.50 feet; S 06 deg. 55 min. 45 sec. E 27.00 feet; S 11 deg. 23 min. 45 sec. E 68.43 feet; and S 18 deg. 12 min. 26 sec. E 616.09 feet to the POINT OF BEGINNING.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 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, 2009.

HR 3047 - ADOPTED
(by Eissler)

The following privileged resolution was laid before the house:

HR 3047

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 3**, relating to public school accountability, curriculum, and promotion requirements, to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1), (2), and (4), are suspended to permit the committee to change and omit text not in disagreement and to add text on a matter not included in either version of the bill, in SECTION 1 of the bill, in Section 7.009, Education Code, to read as follows:

SECTION 1. Section 7.009, Education Code, is amended to read as follows:

Sec. 7.009. BEST PRACTICES; CLEARINGHOUSE. (a) In coordination with the Legislative Budget Board, the agency shall establish an online clearinghouse of information relating to best practices of campuses, ~~and~~ school districts, and open-enrollment charter schools. The agency shall determine the appropriate topic categories for which a campus, district, or charter school may submit best ~~regarding instruction, dropout prevention, public school finance, resource allocation, and business~~ practices. To the extent practicable, the agency shall ensure that information provided through the online clearinghouse is specific, actionable information relating to the best practices of high-performing and highly efficient campuses, ~~and school~~ districts, and open-enrollment charter schools and of academically acceptable campuses, districts, and open-enrollment charter schools that have demonstrated significant improvement in student achievement rather than general guidelines relating to campus, ~~and school~~ district, and open-enrollment charter school operation. The information must be accessible by campuses, school districts, open-enrollment charter schools, and interested members of the public.

(b) The agency shall solicit and collect from the Legislative Budget Board, centers for education research established under Section 1.005, and ~~exemplary or recognized~~ school districts, campuses, and open-enrollment charter schools~~[-as rated under Section 39.072,]~~ examples of best practices as determined by the agency under Subsection (a) ~~relating to instruction, dropout prevention, public school finance, resource allocation, and business practices, including best practices relating to curriculum, scope and sequence, compensation and incentive systems, bilingual education and special language programs, compensatory education programs, and the effective use of instructional technology, including online courses~~.

(c) The agency shall contract for the services of one or more third-party contractors to develop, implement, and maintain a system of collecting and evaluating the best practices of campuses, ~~and~~ school districts, and open-enrollment charter schools as provided by this section. In addition to any other considerations required by law, the agency must consider an applicant's

demonstrated competence and qualifications in analyzing campus, ~~and~~ school district, and open-enrollment charter school practices in awarding a contract under this subsection.

(d) The commissioner may purchase from available funds curriculum and other instructional tools identified under this section to provide for use by school districts and open-enrollment charter schools.

Explanation: The alteration of text is necessary to permit school districts and open-enrollment charter schools to submit best practices in any relevant area, to clarify that a third-party contractor may collect and evaluate best practices submitted by open-enrollment charter schools, and to clarify that the commissioner of education may purchase curriculum and other instructional tools to provide for use by open-enrollment charter schools.

(2) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement, in SECTION 25 of the bill, in amended Section 28.002, Education Code, to read as follows:

(c-2) The State Board of Education shall adopt rules to authorize each school district to implement a program under which students in middle or junior high school may earn credits toward high school graduation in middle or junior high school for any course determined by board rule to qualify as a high school equivalent course.

Explanation: The omission of text is necessary to remove the requirement directing the State Board of Education to adopt rules to authorize school district programs to allow middle or junior high school students to earn high school credit.

(3) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement, in SECTION 27 of the bill, in amended Section 28.014(d), Education Code, to read as follows:

(d) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Subsection (c) to be used for purposes of Section 51.3062. The questions must be developed in a manner consistent with any college readiness standards adopted under Sections 39.233 ~~[39.113]~~ and 51.3062. ~~[A student's performance on a question adopted under this subsection may not be used to determine the student's performance on an end-of-course assessment instrument.]~~

Explanation: The omission of text is necessary to permit a student's performance on a specific question related to postsecondary readiness on an end-of-course assessment instrument to be used to determine the student's performance on the assessment instrument.

(4) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement, in added Section 28.025(b-5), Education Code, to read as follows:

(b-5) Notwithstanding Section 5.09, Chapter 5 (HB 1), 79th Legislature, 3rd Called Session, 2006, the curriculum requirements for the recommended and advanced high school programs under Subsection (b-1) apply to students entering the ninth grade beginning with the 2011-2012 school year. This subsection expires September 1, 2015.

Explanation: The omission of text is necessary to have the high school curriculum requirements for the recommended and advanced high school programs established under Chapter 5 (HB 1), 79th Legislature, 3rd Called Session, 2006, apply to students entering the ninth grade beginning with the 2007-2008 school year, as originally intended.

(5) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either version of the bill, under SECTION 30 of the bill, in amended Section 28.025, Education Code, to read as follows:

(b-7) The agency shall establish a pilot program allowing a student attending school in a county with a population of more than one million and in which more than 80 percent of the population resides in a single municipality to satisfy the fine arts credit required under Subsection (b-1)(3)(A) by participating in a fine arts program not provided by the school district in which the student is enrolled. The fine arts program may be provided on or off a school campus and outside the regular school day. Not later than December 1, 2010, the agency shall provide to the legislature a report regarding the pilot program, including the feasibility of expanding the pilot program statewide.

(b-8) A school district, with the approval of the commissioner, may allow a student to comply with the curriculum requirements for the physical education credit required under Subsection (b-1)(3)(B) by participating in a private or commercially sponsored physical activity program provided on or off a school campus and outside the regular school day.

Explanation: The additions are necessary to establish a fine arts pilot program and to establish an alternative method for meeting the physical education credit requirement.

(6) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following SECTION to the bill on a matter not included in either version of the bill to read as follows:

SECTION 52. Section 39.0234(a), Education Code, is amended to read as follows:

(a) The agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered by computer. The commissioner may not require a school district or open-enrollment charter school to administer an assessment instrument by computer.

Explanation: This addition is necessary to prohibit mandatory administration of assessment instruments by computer.

(7) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either version of the bill, under SECTION 59 of the bill, in proposed Section 39.057(a), Education Code, to read as follows:

(a) The commissioner shall authorize special accreditation investigations to be conducted:

(12) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation; or . . .

Explanation: This addition is necessary to authorize a special accreditation investigation when the comptroller has identified the potential for significant improvement in resource allocation exists at a school district or campus.

(8) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either version of the bill, under SECTION 59 of the bill, in added Section 39.0821, Education Code, to read as follows:

(b) In reviewing resources allocation practices of districts and campuses under this section, the comptroller shall ensure resources are being used for the instruction of students by evaluating:

- (1) the operating cost for each student;
- (2) the operating cost for each program; and
- (3) the staffing cost for each student.

Explanation: The addition is necessary to ensure school district and campus resources are being used for the instruction of students.

HR 3047 was adopted by (Record 1646): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alonzo; Alvarado; Anchia; Anderson; Aycoc; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Legler; Taylor.

Absent — Allen; Cohen; Lewis; Paxton.

HB 3 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Eissler submitted the following conference committee report on **HB 3**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
 President of the Senate

The Honorable Joe Straus
 Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro
 Patrick
 Ogden
 Van de Putte
 Williams

On the part of the senate

Eissler
 Hochberg
 Dutton
 Keffer
 Villarreal

On the part of the house

HB 3, A bill to be entitled An Act relating to public school accountability, curriculum, and promotion requirements.

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

SECTION 1. Section 7.009, Education Code, is amended to read as follows:

Sec. 7.009. BEST PRACTICES; CLEARINGHOUSE. (a) In coordination with the Legislative Budget Board, the agency shall establish an online clearinghouse of information relating to best practices of campuses, ~~and~~ school districts, and open-enrollment charter schools. The agency shall determine the appropriate topic categories for which a campus, district, or charter school may submit best ~~[regarding instruction, dropout prevention, public school finance, resource allocation, and business]~~ practices. To the extent practicable, the agency shall ensure that information provided through the online clearinghouse is specific, actionable information relating to the best practices of high-performing and highly efficient campuses, ~~and school~~ districts, and open-enrollment charter schools and of academically acceptable campuses, districts, and open-enrollment charter schools that have demonstrated significant improvement in student achievement rather than general guidelines relating to campus, ~~and school~~ district, and open-enrollment charter school operation. The information must be accessible by campuses, school districts, open-enrollment charter schools, and interested members of the public.

(b) The agency shall solicit and collect from the Legislative Budget Board, centers for education research established under Section 1.005, and ~~[exemplary or recognized]~~ school districts, campuses, and open-enrollment charter schools~~[-as rated under Section 39.072,]~~ examples of best practices as determined by the agency under Subsection (a) ~~[relating to instruction, dropout prevention, public school finance, resource allocation, and business practices, including best practices relating to curriculum, scope and sequence, compensation and incentive~~

~~systems, bilingual education and special language programs, compensatory education programs, and the effective use of instructional technology, including online courses].~~

(c) The agency shall contract for the services of one or more third-party contractors to develop, implement, and maintain a system of collecting and evaluating the best practices of campuses, ~~[and]~~ school districts, and open-enrollment charter schools as provided by this section. In addition to any other considerations required by law, the agency must consider an applicant's demonstrated competence and qualifications in analyzing campus, ~~[and]~~ school district, and open-enrollment charter school practices in awarding a contract under this subsection.

(d) The commissioner may purchase from available funds curriculum and other instructional tools identified under this section to provide for use by school districts and open-enrollment charter schools.

SECTION 2. Section 7.028(a), Education Code, is amended to read as follows:

(a) Except as provided by Section 29.001(5), 29.010(a), 39.056 ~~[39.074]~~, or 39.057 ~~[39.075]~~, the agency may monitor compliance with requirements applicable to a process or program provided by a school district, campus, program, or school granted charters under Chapter 12, including the process described by Subchapter F, Chapter 11, or a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29, Subchapter A, Chapter 37, or Section 38.003, and the use of funds provided for such a program under Subchapter C, Chapter 42, only as necessary to ensure:

- (1) compliance with federal law and regulations;
- (2) financial accountability, including compliance with grant requirements; and
- (3) data integrity for purposes of:
 - (A) the Public Education Information Management System (PEIMS); and
 - (B) accountability under Chapter 39.

SECTION 3. Sections 7.056(e) and (f), Education Code, are amended to read as follows:

(e) Except as provided by Subsection (f), a school campus or district may not receive an exemption or waiver under this section from:

- (1) a prohibition on conduct that constitutes a criminal offense;
- (2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or
- (3) a requirement, restriction, or prohibition relating to:
 - (A) essential knowledge or skills under Section 28.002 or high school ~~[minimum]~~ graduation requirements under Section 28.025;
 - (B) public school accountability as provided by Subchapters B, C, D, E, and J ~~[G]~~, Chapter 39;
 - (C) extracurricular activities under Section 33.081 or participation in a University Interscholastic League area, regional, or state competition under Section 33.0812;

- (D) health and safety under Chapter 38;
 - (E) purchasing under Subchapter B, Chapter 44;
 - (F) elementary school class size limits, except as provided by Section 25.112;
 - (G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;
 - (H) at-risk programs under Subchapter C, Chapter 29;
 - (I) prekindergarten programs under Subchapter E, Chapter 29;
 - (J) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22;
 - (K) special education programs under Subchapter A, Chapter 29;
 - (L) bilingual education programs under Subchapter B, Chapter 29;
- or
- (M) the requirements for the first day of instruction under Section 25.0811.

(f) A school district or campus that is required to develop and implement a student achievement improvement plan under Section 39.102 ~~[39.134]~~ or 39.103 ~~[39.132]~~ may receive an exemption or waiver under this section from any law or rule other than:

- (1) a prohibition on conduct that constitutes a criminal offense;
- (2) a requirement imposed by federal law or rule;
- (3) a requirement, restriction, or prohibition imposed by state law or rule relating to:
 - (A) public school accountability as provided by Subchapters B, C, D, E, and J ~~[G]~~, Chapter 39; or
 - (B) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22; or
 - (4) textbook selection under Chapter 31.

SECTION 4. Sections 8.051(b) and (d), Education Code, are amended to read as follows:

(b) Each regional education service center shall annually develop and submit to the commissioner for approval a plan for improvement. Each plan must include the purposes and description of the services the center will provide to:

- (1) campuses assigned an ~~[identified as academically]~~ unacceptable performance rating ~~[based on the indicators adopted]~~ under Section 39.054 ~~[39.054]~~;
- (2) the lowest-performing campuses in the region; and
- (3) other campuses.

(d) Each regional education service center shall maintain core services for purchase by school districts and campuses. The core services are:

- (1) training and assistance in teaching each subject area assessed under Section 39.023;
- (2) training and assistance in providing each program that qualifies for a funding allotment under Section 42.151, 42.152, 42.153, or 42.156;

(3) assistance specifically designed for a school district or campus assigned an [rated academically] unacceptable performance rating under Section 39.054 [39.072(a) or a campus whose performance is considered unacceptable based on the indicators adopted under Section 39.051];

(4) training and assistance to teachers, administrators, members of district boards of trustees, and members of site-based decision-making committees;

(5) assistance specifically designed for a school district that is considered out of compliance with state or federal special education requirements, based on the agency's most recent compliance review of the district's special education programs; and

(6) assistance in complying with state laws and rules.

SECTION 5. Section 11.001, Education Code, is amended to read as follows:

Sec. 11.001. ACCREDITATION. Each school district must be accredited by the agency as provided by Subchapter C [D], Chapter 39.

SECTION 6. Section 11.003(d), Education Code, is amended to read as follows:

(d) The commissioner may require a district to enter into a cooperative shared services arrangement for administrative services if the commissioner determines:

(1) that the district has failed to satisfy a financial accountability standard as determined by commissioner rule under Subchapter D [F], Chapter 39; and

(2) that entering into a cooperative shared services arrangement would:

(A) enable the district to enhance its performance on the financial accountability standard identified under Subdivision (1); and

(B) promote the efficient operation of the district.

SECTION 7. Section 11.1511(b), Education Code, is amended to read as follows:

(b) The board shall:

(1) seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community;

(2) adopt a vision statement and comprehensive goals for the district and the superintendent and monitor progress toward those goals;

(3) establish performance goals for the district concerning:

(A) the academic and fiscal performance indicators under Subchapters C, D, and J [F], Chapter 39~~[, respectively]~~; and

(B) any performance indicators adopted by the district;

(4) ensure that the superintendent:

(A) is accountable for achieving performance results;

(B) recognizes performance accomplishments; and

(C) takes action as necessary to meet performance goals;

(5) adopt a policy to establish a district- and campus-level planning and decision-making process as required under Section 11.251;

(6) publish an annual educational performance report as required under Section 39.306 [~~39.053~~];

(7) adopt an annual budget for the district as required under Section 44.004;

(8) adopt a tax rate each fiscal year as required under Section 26.05, Tax Code;

(9) monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records;

(10) ensure that district fiscal accounts are audited annually as required under Section 44.008;

(11) publish an end-of-year financial report for distribution to the community;

(12) conduct elections as required by law;

(13) by rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the district administrators and the board regarding a complaint;

(14) make decisions relating to terminating the employment of district employees employed under a contract to which Chapter 21 applies, including terminating or not renewing an employment contract to which that chapter applies; and

(15) carry out other powers and duties as provided by this code or other law.

SECTION 8. Section 11.201(d), Education Code, is amended to read as follows:

(d) The duties of the superintendent include:

(1) assuming administrative responsibility and leadership for the planning, organization, operation, supervision, and evaluation of the education programs, services, and facilities of the district and for the annual performance appraisal of the district's staff;

(2) except as provided by Section 11.202, assuming administrative authority and responsibility for the assignment, supervision, and evaluation of all personnel of the district other than the superintendent;

(3) overseeing compliance with the standards for school facilities established by the commissioner under Section 46.008;

(4) initiating the termination or suspension of an employee or the nonrenewal of an employee's term contract;

(5) managing the day-to-day operations of the district as its administrative manager, including implementing and monitoring plans, procedures, programs, and systems to achieve clearly defined and desired results in major areas of district operations;

(6) preparing and submitting to the board of trustees a proposed budget as provided by Section 44.002 and rules adopted under that section, and administering the budget;

(7) preparing recommendations for policies to be adopted by the board of trustees and overseeing the implementation of adopted policies;

- (8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;
- (9) providing leadership for the attainment and, if necessary, improvement of student performance in the district based on the indicators adopted under Sections 39.053 and 39.301 [~~Section 39.054~~] and other indicators adopted by the commissioner [~~State Board of Education~~] or the district's board of trustees;
- (10) organizing the district's central administration;
- (11) consulting with the district-level committee as required under Section 11.252(f);
- (12) ensuring:
- (A) adoption of a student code of conduct as required under Section 37.001 and enforcement of that code of conduct; and
- (B) adoption and enforcement of other student disciplinary rules and procedures as necessary;
- (13) submitting reports as required by state or federal law, rule, or regulation;
- (14) providing joint leadership with the board of trustees to ensure that the responsibilities of the board and superintendent team are carried out; and
- (15) performing any other duties assigned by action of the board of trustees.

SECTION 9. Section 11.203(d), Education Code, is amended to read as follows:

(d) A principal who was employed as a principal at a campus that was [~~of a campus~~] rated academically unacceptable during the preceding school year [~~as well as any person employed to replace that principal.~~] shall participate in the program and complete the program requirements not later than a date determined by the commissioner.

SECTION 10. Section 11.252(a), Education Code, is amended to read as follows:

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the student achievement [~~academic excellence~~] indicators adopted under Section 39.053 [~~39.054~~]. The district improvement plan must include provisions for:

(1) a comprehensive needs assessment addressing district student performance on the student achievement [~~academic excellence~~] indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29;

(2) measurable district performance objectives for all appropriate student achievement [~~academic excellence~~] indicators for all student populations, including students in special education programs under Subchapter A, Chapter 29, and other measures of student performance that may be identified through the comprehensive needs assessment;

(3) strategies for improvement of student performance that include:

(A) instructional methods for addressing the needs of student groups not achieving their full potential;

(B) methods for addressing the needs of students for special programs, such as suicide prevention, conflict resolution, violence prevention, or dyslexia treatment programs;

(C) dropout reduction;

(D) integration of technology in instructional and administrative programs;

(E) discipline management;

(F) staff development for professional staff of the district;

(G) career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities; and

(H) accelerated education;

(4) strategies for providing to middle school, junior high school, and high school students, those students' teachers and counselors, and those students' parents information about:

(A) higher education admissions and financial aid opportunities;

(B) the TEXAS grant program and the Teach for Texas grant program established under Chapter 56;

(C) the need for students to make informed curriculum choices to be prepared for success beyond high school; and

(D) sources of information on higher education admissions and financial aid;

(5) resources needed to implement identified strategies;

(6) staff responsible for ensuring the accomplishment of each strategy;

(7) timelines for ongoing monitoring of the implementation of each improvement strategy; and

(8) formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

SECTION 11. Sections 11.253(c) and (d), Education Code, are amended to read as follows:

(c) Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations, including students in special education programs under Subchapter A, Chapter 29, with respect to the student achievement [~~academic excellence~~] indicators adopted under Section 39.053 [~~39.054~~] and any other appropriate performance measures for special needs populations.

(d) Each campus improvement plan must:

(1) assess the academic achievement for each student in the school using the student achievement [~~academic excellence~~] indicator system as described by Section 39.053 [~~39.051~~];

(2) set the campus performance objectives based on the student achievement [~~academic excellence~~] indicator system, including objectives for special needs populations, including students in special education programs under Subchapter A, Chapter 29;

(3) identify how the campus goals will be met for each student;

(4) determine the resources needed to implement the plan;

(5) identify staff needed to implement the plan;

(6) set timelines for reaching the goals;

(7) measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement;

(8) include goals and methods for violence prevention and intervention on campus; and

(9) provide for a program to encourage parental involvement at the campus.

SECTION 12. Section 11.255(a), Education Code, is amended to read as follows:

(a) Each district-level planning and decision-making committee and each campus-level planning and decision-making committee for a junior, middle, or high school campus shall analyze information related to dropout prevention, including:

(1) the results of the audit of dropout records required by Section 39.308 [~~39.055~~];

(2) campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade level 9;

(3) the number of students who enter a high school equivalency certificate program and:

(A) do not complete the program;

(B) complete the program but do not take the high school equivalency examination; or

(C) complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;

(4) for students enrolled in grade levels 9 and 10, information related to academic credit hours earned, retention rates, and placements in alternative education programs and expulsions under Chapter 37; and

(5) the results of an evaluation of each school-based dropout prevention program in the district.

SECTION 13. Section 12.013(b), Education Code, is amended to read as follows:

(b) A home-rule school district is subject to:

(1) a provision of this title establishing a criminal offense;

(2) a provision of this title relating to limitations on liability; and

(3) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001;

(C) criminal history records under Subchapter C, Chapter 22;

(D) student admissions under Section 25.001;

(E) school attendance under Sections 25.085, 25.086, and 25.087;

(F) inter-district or inter-county transfers of students under Subchapter B, Chapter 25;

(G) elementary class size limits under Section 25.112, in the case of any campus in the district that fails to satisfy any standard [~~is considered academically unacceptable~~] under Section 39.054(d) [~~39.132~~];

(H) high school graduation under Section 28.025;

(I) special education programs under Subchapter A, Chapter 29;

(J) bilingual education under Subchapter B, Chapter 29;

(K) prekindergarten programs under Subchapter E, Chapter 29;

(L) safety provisions relating to the transportation of students under Sections 34.002, 34.003, 34.004, and 34.008;

(M) computation and distribution of state aid under Chapters 31, 42, and 43;

(N) extracurricular activities under Section 33.081;

(O) health and safety under Chapter 38;

(P) public school accountability under Subchapters B, C, D, E, and J [~~G~~], Chapter 39;

(Q) equalized wealth under Chapter 41;

(R) a bond or other obligation or tax rate under Chapters 42, 43, and 45; and

(S) purchasing under Chapter 44.

SECTION 14. Section 12.056(b), Education Code, is amended to read as follows:

(b) A campus or program for which a charter is granted under this subchapter is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) high school graduation under Section 28.025;

(D) special education programs under Subchapter A, Chapter 29;

(E) bilingual education under Subchapter B, Chapter 29;

(F) prekindergarten programs under Subchapter E, Chapter 29;

(G) extracurricular activities under Section 33.081;

(H) health and safety under Chapter 38; and

(I) public school accountability under Subchapters B, C, E [~~D~~], and J [~~G~~], Chapter 39.

SECTION 15. Section 12.1012(5), Education Code, is amended to read as follows:

(5) "Management services" means services related to the management or operation of an open-enrollment charter school, including:

(A) planning, operating, supervising, and evaluating the school's educational programs, services, and facilities;

(B) making recommendations to the governing body of the school relating to the selection of school personnel;

(C) managing the school's day-to-day operations as its administrative manager;

(D) preparing and submitting to the governing body of the school a proposed budget;

(E) recommending policies to be adopted by the governing body of the school, developing appropriate procedures to implement policies adopted by the governing body of the school, and overseeing the implementation of adopted policies; and

(F) providing leadership for the attainment of student performance at the school based on the indicators adopted under Sections 39.053 and 39.301 [~~Section 39.051~~] or by the governing body of the school.

SECTION 16. Section 12.104(b), Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) ~~[satisfactory performance on assessment instruments and to]~~ accelerated instruction under Section 28.0211;

(E) high school graduation requirements under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E, Chapter 29;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, E, and J [~~G~~], Chapter 39;

(M) the requirement under Section 21.006 to report an educator's misconduct; and

(N) intensive programs of instruction under Section 28.0213.

SECTION 17. Section 12.1054(a), Education Code, is amended to read as follows:

(a) A member of the governing body of a charter holder, a member of the governing body of an open-enrollment charter school, or an officer of an open-enrollment charter school is considered to be a local public official for purposes of Chapter 171, Local Government Code. For purposes of that chapter:

(1) a member of the governing body of a charter holder or a member of the governing body or officer of an open-enrollment charter school is considered to have a substantial interest in a business entity if a person related to the member or officer in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity under Section 171.002, Local Government Code;

(2) notwithstanding any provision of Section 12.1054(1), an employee of an open-enrollment charter school rated [~~as academically~~] acceptable or higher under Section 39.054 [~~Chapter 39~~] for at least two of the preceding three school years may serve as a member of the governing body of the charter holder of the governing body of the school if the employees do not constitute a quorum of the governing body or any committee of the governing body; however, all members shall comply with the requirements of Sections 171.003-171.007, Local Government Code.

SECTION 18. Section 12.1055(b), Education Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), if an open-enrollment charter school is rated [~~academically~~] acceptable or higher under Section 39.054 [~~Chapter 39~~] for at least two of the preceding three school years, then Chapter 573, Government Code, does not apply to that school; however, a member of the governing body of a charter holder or a member of the governing body or officer of an open-enrollment charter school shall comply with the requirements of Sections 171.003-171.007, Local Government Code, with respect to a personnel matter concerning a person related to the member or officer within the degree specified by Section 573.002, Government Code, as if the personnel matter were a transaction with a business entity subject to those sections, and persons defined under Sections 573.021-573.025, Government Code, shall not constitute a quorum of the governing body or any committee of the governing body.

SECTION 19. Section 12.1162(a), Education Code, is amended to read as follows:

(a) The commissioner shall take any of the actions described by Subsection (b) or by Section 39.102(a) [~~39.131(a)~~], to the extent the commissioner determines necessary, if an open-enrollment charter school, as determined by a report issued under Section 39.058(b) [~~39.076(b)~~]:

(1) commits a material violation of the school's charter;

(2) fails to satisfy generally accepted accounting standards of fiscal management; or

(3) fails to comply with this subchapter or another applicable rule or law.

SECTION 20. Section 18.006(a), Education Code, is amended to read as follows:

(a) The commissioner shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to be used in assigning an annual performance rating to Job Corps diploma programs comparable to the ratings assigned to school districts under Section 39.054 ~~[39.072]~~. The commissioner may develop and implement a system of distinction designations consistent with Subchapter G, Chapter 39, where appropriate, to be used in assigning distinction designations to Job Corps diploma programs comparable to the distinction designations assigned to campuses under Subchapter G, Chapter 39.

SECTION 21. Section 21.354(e), Education Code, is amended to read as follows:

(e) The appraisal of a principal shall include consideration of the performance of a principal's campus on the student achievement indicators established under Section 39.053 ~~[39.054]~~ and the campus's objectives established under Section 11.253, including performance gains of the campus and the maintenance of those gains.

SECTION 22. Section 21.357(c), Education Code, is amended to read as follows:

(c) A performance incentive awarded to a principal under this section must be distributed to the principal's school and used in the manner determined by the campus-level committee established under Section 11.253 in accordance with the requirements of Section 39.264(a) ~~[39.094(a)]~~.

SECTION 23. Section 21.4541(b), Education Code, is amended to read as follows:

(b) A school district or campus is eligible to participate in the pilot program under this section if the district or campus meets the eligibility criteria established as provided by Section 39.408 ~~[39.358]~~.

SECTION 24. Section 21.4551(c), Education Code, is amended to read as follows:

(c) The commissioner by rule shall require a teacher to attend a reading academy if the teacher provides instruction in reading, mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level at a campus that fails to satisfy any standard ~~[is considered academically unacceptable]~~ under Section 39.054(d) ~~[39.132]~~ on the basis of student performance on the reading assessment instrument administered under Section 39.023(a) to students in any grade level at the campus.

SECTION 25. Section 28.002, Education Code, is amended by adding Subsections (c-1), (d), and (q) to read as follows:

(c-1) The State Board of Education shall adopt rules requiring students enrolled in grade levels six, seven, and eight to complete at least one fine arts course during those grade levels as part of a district's fine arts curriculum.

(d) Each time the Texas Higher Education Coordinating Board revises the Internet database of the coordinating board's official statewide inventory of workforce education courses, the State Board of Education shall by rule revise the essential knowledge and skills of any corresponding career and technology education curriculum as provided by Subsection (c).

(q) Notwithstanding any other provision of this title, a school district may not vary the curriculum for a course in the required curriculum under Subsection (a) based on whether a student is enrolled in the minimum, recognized, or advanced high school program.

SECTION 26. Section 28.006(j), Education Code, is amended to read as follows:

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.301(b)(4) ~~[39.051(b)(8)]~~ and may implement interventions or sanctions under Subchapter E [G], Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

SECTION 27. Section 28.014(d), Education Code, is amended to read as follows:

(d) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Subsection (c) to be used for purposes of Section 51.3062. The questions must be developed in a manner consistent with any college readiness standards adopted under Sections 39.233 ~~[39.113]~~ and 51.3062. ~~[A student's performance on a question adopted under this subsection may not be used to determine the student's performance on an end-of-course assessment instrument.]~~

SECTION 28. Section 28.021, Education Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) In determining promotion under Subsection (a), a school district shall consider:

- (1) the recommendation of the student's teacher;
- (2) the student's grade in each subject or course;
- (3) the student's score on an assessment instrument administered under Section 39.023(a), (b), or (l); and
- (4) any other necessary academic information, as determined by the district.

(d) By the start of the school year, a district shall make public the requirements for student advancement under this section.

(e) The commissioner shall provide guidelines to districts based on best practices that a district may use when considering factors for promotion.

SECTION 29. Section 28.0211, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (n) to read as follows:

(a) Except as provided by Subsection (b) or (e), a student may not be promoted to:

(1) ~~[the fourth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the third grade reading assessment instrument under Section 39.023;~~

~~(2)~~ the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or

(2) ~~(3)~~ the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

(a-1) Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

(a-2) A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who is promoted to the next grade level must complete accelerated instruction required under Subsection (a-1) before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted.

(a-3) The commissioner shall provide guidelines to districts on research-based best practices and effective strategies that a district may use in developing an accelerated instruction program.

(n) A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and is promoted must be assigned in all foundation curriculum subjects to a teacher who meets all state and federal qualifications to teach that subject and grade.

SECTION 30. Section 28.025, Education Code, is amended by amending Subsections (a), (b), and (b-1) and adding Subsections (b-3), (b-4), (b-5), (b-6), (b-7), and (b-8) to read as follows:

(a) The State Board of Education by rule shall determine curriculum requirements for the minimum, recommended, and advanced high school programs that are consistent with the required curriculum under Section 28.002. Subject to Subsection (b-1), the State Board of Education shall designate the specific courses in the foundation curriculum required for a student participating in the minimum, recommended, or advanced high school program. Except as provided by Subsection (b-1), the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the recommended program.

(b) A school district shall ensure that each student enrolls in the courses necessary to complete the curriculum requirements identified by the State Board of Education under Subsection (a) for the recommended or advanced high school program unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the minimum high school program and the student:

(1) is at least 16 years of age;

(2) has completed two credits required for graduation in each subject of the foundation curriculum under Section 28.002(a)(1); or

(3) has failed to be promoted to the tenth grade one or more times as determined by the school district.

(b-1) The State Board of Education by rule shall require that:

(1) except as provided by Subsection (b-2), the curriculum requirements for the recommended and advanced high school programs under Subsection (a) include a requirement that students successfully complete:

(A) four credits [~~courses~~] in each subject of the foundation curriculum under Section 28.002(a)(1), including at least one-half credit in government and at least one-half credit in economics to meet the social studies requirement;

(B) for the recommended high school program, two credits in the same language in a language other than English under Section 28.002(a)(2)(A) and, for the advanced high school program, three credits in the same language in a language other than English under Section 28.002(a)(2)(A); and

(C) for the recommended high school program, six elective credits and, for the advanced high school program, five elective credits; [~~and~~]

(2) one or more credits [~~courses~~] offered in the required curriculum for the recommended and advanced high school programs include a research writing component; and

(3) the curriculum requirements for the minimum, recommended, and advanced high school programs under Subsection (a) include a requirement that students successfully complete:

(A) one credit in fine arts under Section 28.002(a)(2)(D); and

(B) one credit in physical education under Section 28.002(a)(2)(C).

(b-3) In adopting rules to provide students with the option described by Subsection (b-1)(1)(A), the State Board of Education must approve a variety of mathematics and science courses that may be taken by a student after completion of Algebra II and physics to comply with the recommended program requirements. A student completing a course approved under this subsection must comply with all applicable requirements relating to end-of-course assessment instruments otherwise applicable to the student under Sections 39.023(c) and 39.025. A course approved under this subsection may be provided in an applied manner and must:

(1) be endorsed by an institution of higher education as a course for which the institution would award course credit or as a prerequisite for a course for which the institution would award course credit; and

(2) cover the essential knowledge and skills identified under Section 28.002 for mathematics or science, as applicable.

(b-4) Before a student's parent or other person standing in parental relation to the student may agree that the student be permitted to take courses under the minimum high school program as provided by Subsection (b), a school district must provide written notice to the parent or person standing in parental relation explaining the benefits of the recommended high school program. The notice shall be developed by the agency and must:

(1) be printed in English and Spanish; and

(2) require that the student's parent or person standing in parental relation to the student sign a confirmation of receipt and return the confirmation to the student's campus.

(b-5) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the minimum, recommended, or advanced high school program for each subject of the foundation curriculum under Section 28.002(a)(1) and for languages other than English under Section 28.002(a)(2)(A) by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section 61.822.

(b-6) A student agreeing to take courses under the minimum high school program as provided by Subsection (b) may, upon request, resume taking courses under the recommended high school program.

(b-7) The agency shall establish a pilot program allowing a student attending school in a county with a population of more than one million and in which more than 80 percent of the population resides in a single municipality to satisfy the fine arts credit required under Subsection (b-1)(3)(A) by participating in a fine arts program not provided by the school district in which the student is enrolled. The fine arts program may be provided on or off a school campus and outside the regular school day. Not later than December 1, 2010, the agency shall provide to the legislature a report regarding the pilot program, including the feasibility of expanding the pilot program statewide.

(b-8) A school district, with the approval of the commissioner, may allow a student to comply with the curriculum requirements for the physical education credit required under Subsection (b-1)(3)(B) by participating in a private or commercially sponsored physical activity program provided on or off a school campus and outside the regular school day.

SECTION 31. Section 28.0252(b), Education Code, is amended to read as follows:

(b) If the commissioner develops a standard method under this section, a school district shall use the standard method to compute a student's high school grade point average[~~—except that to the extent of a conflict between that method and the method adopted under Section 51.807, the student's grade point average computed in accordance with the method established under Section 51.807 shall be used in determining the student's eligibility for university admission under Subchapter U, Chapter 51.~~].

SECTION 32. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0253 to read as follows:

Sec. 28.0253. PILOT PROGRAM: HIGH SCHOOL DIPLOMAS FOR STUDENTS WHO DEMONSTRATE EARLY READINESS FOR COLLEGE.

(a) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Research university" means an institution of higher education that is designated as a research university under the Texas Higher Education Coordinating Board's accountability system.

(b) A research university that chooses to participate in the pilot program shall:

(1) not later than September 1 of each year, make available on the university's Internet website detailed standards for use in the program regarding:

(A) the specific competencies that demonstrate a student's mastery of each subject area for which the Texas Higher Education Coordinating Board and the commissioner have adopted college readiness standards;

(B) the specific competencies that demonstrate a student's mastery of a language other than English; and

(C) acceptable assessments or other means by which a student may demonstrate the student's early readiness for college with respect to each subject area and the language described by this subdivision, subject to Subsection (c);

(2) partner with at least 10 school districts that reflect the geographic diversity of this state and the student compositions of which reflect the socioeconomic diversity of this state; and

(3) assist school administrators, school counselors, and other educators in each of those school districts in designing the specific requirements of and implementing the program in the district.

(c) The assessments or other means filed by a research university under Subsection (b)(1)(C) must be equivalent to the assessments or other means the university uses to place students at the university in courses that may be credited toward a degree requirement.

(d) A research university that partners with a school district under this section shall enter into an agreement with the district under which the university and district agree that the district will assess a student's mastery of the subject areas described by Subsection (b)(1) and a language other than English in accordance with the standards the university filed under Subsection (b)(1). The district may issue a high school diploma to a student under the program if, using the standards, the student demonstrates mastery of and early readiness for college in each of those subject areas and in a language other than English, notwithstanding any other local or state requirements.

(e) A student who receives a high school diploma through the pilot program is considered to have completed the recommended high school program adopted under Section 28.025(a). The student is not guaranteed admission to any

institution of higher education or to any academic program at an institution of higher education solely on the basis of having received the diploma through the program.

(f) A research university that participates in the pilot program shall enter into an agreement with an education research center established under Section 1.005 to conduct an evaluation of the program with respect to that university and the school districts with which the university partners. Not later than January 1, 2013, the education research center shall provide a written report of the evaluation to the commissioner and the commissioner of higher education and make the report available on the center's Internet website. The report may include an analysis of the effects of the program on the university's admissions review process.

SECTION 33. Section 29.062(a), Education Code, is amended to read as follows:

(a) The legislature recognizes that compliance with this subchapter is an imperative public necessity. Therefore, in accordance with the policy of the state, the agency shall evaluate the effectiveness of programs under this subchapter based on the student achievement [~~academic excellence~~] indicators adopted under Section 39.053 [~~39.051(a)~~], including the results of assessment instruments. The agency may combine evaluations under this section with federal accountability measures concerning students of limited English proficiency.

SECTION 34. Section 29.094(c), Education Code, is amended to read as follows:

(c) A campus may apply to the commissioner to participate in the pilot program. The commissioner may select for participation in the pilot program only campuses that have failed to improve student performance in reading according to standards established by the commissioner. The standards established by the commissioner for purposes of this subsection must be based on reading performance standards considered [~~required~~] for student promotion under Section 28.021 [~~28.0211~~].

SECTION 35. Section 29.095(a)(1), Education Code, as added by Chapter 1058 (**HB 2237**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(1) "Council" means the High School Completion and Success Initiative Council established under Subchapter M [~~L~~], Chapter 39.

SECTION 36. Section 29.095(c), Education Code, as added by Chapter 1058 (**HB 2237**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(c) The commissioner may award a grant in an amount not to exceed \$5,000 in a school year to a school district on behalf of a student club at a district high school campus that is eligible under the criteria established under Section 39.408 [~~39.358~~]. To be eligible for a grant, the student club and the club's sponsor must be sanctioned by the campus and district. A grant awarded under this program must be matched by other federal, state, or local funds, including donations, in an amount equal to the amount of the grant. A district shall seek

donations or sponsorships from local businesses or community organizations to raise the matching funds. The commissioner may award a grant on behalf of more than one student club at a campus in the same school year.

SECTION 37. Sections 29.096(a) and (c), Education Code, are amended to read as follows:

(a) In this section, "council" means the High School Completion and Success Initiative Council established under Subchapter M ~~[L]~~, Chapter 39.

(c) A school district or open-enrollment charter school is eligible to participate and receive a grant under this section under the eligibility criteria established under Section 39.408 ~~[39.358]~~.

SECTION 38. Section 29.097(a)(1), Education Code, is amended to read as follows:

(1) "Council" means the High School Completion and Success Initiative Council established under Subchapter M ~~[L]~~, Chapter 39.

SECTION 39. Section 29.097(c), Education Code, is amended to read as follows:

(c) The commissioner may select for participation in the pilot program only a campus that is eligible under the criteria established under Section 39.408 ~~[39.358]~~.

SECTION 40. Section 29.098(c), Education Code, is amended to read as follows:

(c) The commissioner of education may select for participation in the pilot program only a campus that is eligible under the criteria established under Section 39.408 ~~[39.358]~~.

SECTION 41. Section 29.182(b), Education Code, is amended to read as follows:

(b) The state plan must include procedures designed to ensure that:

(1) all secondary and postsecondary students have the opportunity to participate in career and technology education programs;

(2) the state complies with requirements for supplemental federal career and technology education funding; and

(3) career and technology education is established as a part of the total education system of this state and constitutes an option for student learning that provides a rigorous course of study consistent with the required curriculum under Section 28.002 and under which a student may receive specific education in a career and technology program that:

(A) incorporates competencies leading to academic and technical skill attainment;

(B) leads to:

(i) an industry-recognized license, credential, or certificate; or

(ii) at the postsecondary level, an associate or baccalaureate

degree;

(C) includes opportunities for students to earn college credit for coursework; and

(D) includes, as an integral part of the program, participation by students and teachers in activities of career and technical student organizations supported by the agency and the State Board of Education.

SECTION 42. Section 29.202(a), Education Code, is amended to read as follows:

(a) A student is eligible to receive a public education grant or to attend another public school in the district in which the student resides under this subchapter if the student is assigned to attend a public school campus:

(1) at which 50 percent or more of the students did not perform satisfactorily on an assessment instrument administered under Section 39.023(a) or (c) in any two of the preceding three years; or

(2) that ~~was~~, at any time in the preceding three years, failed to satisfy any standard ~~[considered academically unacceptable]~~ under Section 39.054(d) ~~[39.132]~~.

SECTION 43. Section 29.904(d), Education Code, is amended to read as follows:

(d) A plan developed under this section:

(1) must establish clear, achievable goals for increasing the percentage of the school district's graduating seniors, particularly the graduating seniors attending a high school described by Subsection (a), who enroll in an institution of higher education for the academic year following graduation;

(2) must establish an accurate method of measuring progress toward the goals established under Subdivision (1) that may include the percentage of district high school students and the percentage of students attending a district high school described by Subsection (a) who:

(A) are enrolled in a course for which a student may earn college credit, such as an advanced placement or international baccalaureate course or a course offered through concurrent enrollment in high school and at an institution of higher education;

(B) are enrolled in courses that meet the curriculum requirements for the recommended or advanced high school program as determined under Section 28.025;

(C) have submitted a free application for federal student aid (FAFSA);

(D) are exempt under Section 51.3062(p) or (q) ~~[51.306(l) or (m)]~~ from administration of an assessment ~~[a test]~~ instrument under Section 51.3062 ~~[51.306]~~ or have performed successfully on an assessment ~~[a test]~~ instrument under Section 51.3062 ~~[51.306]~~;

(E) graduate from high school;

(F) graduate from an institution of higher education; and

(G) have taken college entrance examinations and the average score of those students on the examinations;

(3) must cover a period of at least five years; and

(4) may be directed at district students at any level of primary or secondary education.

SECTION 44. Section 29.906(e), Education Code, is amended to read as follows:

(e) The agency shall:

(1) maintain a list of character education programs that school districts have implemented that meet the criteria under Subsection (b);

(2) based on data reported by districts, annually designate as a Character Plus School each school that provides a character education program that:

(A) meets the criteria prescribed by Subsection (b); and

(B) is approved by the committee selected under Subsection (c);

and

(3) include in the report required under Section 39.332 ~~[39.182]~~:

(A) based on data reported by districts, the impact of character education programs on student discipline and academic achievement; and

(B) other reported data relating to character education programs the agency considers appropriate for inclusion.

SECTION 45. Sections 29.918(a) and (c), Education Code, are amended to read as follows:

(a) Notwithstanding Section 39.234 ~~[39.114]~~ or 42.152, a school district or open-enrollment charter school with a high dropout rate, as determined by the commissioner, must submit a plan to the commissioner describing the manner in which the district or charter school intends to use the compensatory education allotment under Section 42.152 and the high school allotment under Section 42.2516(b)(3) for developing and implementing research-based strategies for dropout prevention. The district or charter school shall submit the plan not later than December 1 of each school year preceding the school year in which the district or charter school will receive the compensatory education allotment or high school allotment to which the plan applies.

(c) The commissioner shall adopt rules to administer this section. The commissioner may impose interventions or sanctions under Section 39.102 ~~[39.134]~~ or 39.104 ~~[39.132]~~ if a school district or open-enrollment charter school fails to timely comply with this section.

SECTION 46. Section 30A.101, Education Code, is amended to read as follows:

Sec. 30A.101. ELIGIBILITY TO ACT AS PROVIDER SCHOOL DISTRICT OR SCHOOL. (a) A school district is eligible to act as a provider school district under this chapter only if the district is rated ~~[academically]~~ acceptable or higher under Section 39.054 ~~[39.072]~~.

(b) An open-enrollment charter school is eligible to act as a provider school under this chapter only if the school is rated acceptable ~~[recognized]~~ or higher under Section 39.054 ~~[39.072]~~, and may serve as a provider school only:

(1) to a student within the school district in which the school is located or within its service area, whichever is smaller; or

(2) to another student in the state through an agreement with the administering authority under Section 30A.153.

SECTION 47. Section 32.157(a), Education Code, is amended to read as follows:

(a) After the expiration of the pilot project, the agency may review the pilot project based on the annual reports the agency receives from the board of trustees of participating school districts. The agency may include the review of the pilot project in the comprehensive annual report required under Section 39.332 [~~39.182~~] that covers the 2010-2011 school year.

SECTION 48. Section 32.252(b), Education Code, is amended to read as follows:

(b) The portal must serve as a single point of access to educational resources other than student assessment data accessible through the student assessment data portal under Section 32.258. In addition to any other purpose specified by this subchapter or any other educational purpose, the portal may be used to:

(1) alleviate inequities in access to educational resources by providing access to on-line courses;

(2) improve student academic performance by providing access to tutorial materials, instructional materials that have been shown to improve academic performance, and other interactive materials, including materials that assess an individual student's knowledge and prepare the student for the administration of a standardized assessment instrument, including an assessment instrument administered under Section 39.023;

(3) provide school districts with access to administrative software and other electronic tools designed to promote administrative efficiency and intra-district communication; or

(4) ~~provide secure access to student assessment data; or~~

~~(5)~~ provide links to appropriate educational resources and experts available through the Internet.

SECTION 49. Section 32.258, Education Code, is amended to read as follows:

Sec. 32.258. STUDENT ASSESSMENT DATA; DATA PORTAL. (a) The agency shall establish and maintain a student assessment data portal for use by school districts, teachers, parents, students, and public institutions of higher education. The agency shall ~~may~~ establish a secure, interoperable system to be implemented through the portal under which:

(1) a student or the student's parent or other person standing in parental relationship can easily access the student's individual assessment data;

(2) an authorized employee of a school district, including a district teacher, ~~districts~~ can readily access individual ~~student~~ assessment data of district students for use in developing strategies for improving student performance; and

(3) an authorized employee of a public institution of higher education can readily access individual assessment data of students applying for admission for use in developing strategies for improving student performance.

(b) The system established under Subsection (a) shall provide a means for a student or the student's parent or other person standing in parental relationship to track the student's progress on assessment instrument requirements for graduation.

(c) The agency shall establish an interoperable system to be implemented through the portal under which general student assessment data is easily accessible to the public.

(d) Student assessment data provided under this section must:

(1) be available on or before the first instructional day of the school year following the year in which the data is collected; and

(2) include student performance data on assessment instruments over multiple years, beginning with the 2007-2008 school year, including any data indicating progress in student achievement.

(e) Each ~~[(b) In establishing the]~~ system established under ~~[required by]~~ this section must permit comparisons of ~~[, the agency shall seek to further the goal of providing school districts with access to]~~ student performance information at the classroom, campus, district, and state levels ~~[level].~~

SECTION 50. Section 39.023, Education Code, is amended by adding Subsections (a-1), (o), and (p) and amending Subsections (b), (c), (c-4), (d), (e), (l), and (m) to read as follows:

(a-1) The agency shall develop assessment instruments required under Subsection (a) in a manner that allows, to the extent practicable:

(1) the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section 39.0241; and

(2) an appropriate range of performances to serve as a valid indication of growth in student achievement.

(b) The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, ~~[who receives modified instruction in the essential knowledge and skills identified under Section 28.002 for the assessed subject but]~~ for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations ~~[modifications]~~, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. ~~[The assessment instruments required under this subsection must assess essential knowledge and skills and growth in the subjects of reading, mathematics, and writing. A student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).]~~

(c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. The Algebra I, Algebra II, and geometry end-of-course

assessment instruments must be administered with the aid of technology. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection and shall adopt a policy that requires a student's performance on an end-of-course assessment instrument for a course listed in this subsection in which the student is enrolled to account for 15 percent of the student's final grade for the course. If a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided by Section 39.025, a school district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection ~~[or whether the student should be exempted under Section 39.027(a)(2)]~~. The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).

(c-4) To the extent practicable and subject to Section 39.024, the agency shall ensure that each end-of-course assessment instrument adopted under Subsection (c) is:

- (1) developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008; and
- (2) validated by national postsecondary education experts for college readiness content and performance standards.

(d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument ~~[or whether the student should be exempted under Section 39.027(a)(2)]~~.

(e) Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score.

(l) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five ~~[six]~~ who are of limited English proficiency, as defined

by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2) [~~39.027(a)(3) or (4)~~]. Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.

(m) The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section 29.063 shall determine which students are exempt from the administration of the assessment instruments under Section 39.027(a)(1) or (2) [~~39.027(a)(3) and (4)~~]. The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date.

(o) The commissioner of education and the commissioner of higher education shall study the feasibility of allowing students to satisfy end-of-course requirements under Subsection (c) by successfully completing a dual credit course through an institution of higher education. Not later than December 1, 2010, the commissioner of education and the commissioner of higher education shall make recommendations to the legislature based on the study conducted under this subsection.

(p) On or before September 1 of each year, the commissioner shall make the following information available on the agency's Internet website for each assessment instrument administered under Subsection (a), (c), or (l):

(1) the number of questions on the assessment instrument;

(2) the number of questions that must be answered correctly to achieve satisfactory performance as determined by the commissioner under Section 39.0241(a);

(3) the number of questions that must be answered correctly to achieve satisfactory performance under the college readiness performance standard as provided by Section 39.0241; and

(4) the corresponding scale scores.

SECTION 51. Section 39.0233(d), Education Code, is amended to read as follows:

(d) The questions adopted under this section may not [~~must~~] be administered in a separate section of the end-of-course assessment instrument [~~in which the questions are included~~].

SECTION 52. Section 39.0234(a), Education Code, is amended to read as follows:

(a) The agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered by computer. The commissioner may not require a school district or open-enrollment charter school to administer an assessment instrument by computer.

SECTION 53. Subchapter B, Chapter 39, Education Code, is amended by amending Section 39.024 and adding Sections 39.0241 and 39.0242 to read as follows:

Sec. 39.024. MEASURE OF COLLEGE READINESS. (a) In this section, "college readiness" means the level of preparation a student must attain in English language arts and mathematics courses to enroll and succeed, without remediation, in an entry-level general education course for credit in that same content area for a baccalaureate degree or associate degree program at:

(1) a general academic teaching institution, as defined by Section 61.003, other than a research institution, as categorized under the Texas Higher Education Coordinating Board's accountability system; or

(2) a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

(b) The agency and the Texas Higher Education Coordinating Board shall ensure that the Algebra II and English III end-of-course assessment instruments required under Section 39.023(c) are developed to be capable of, beginning with the 2011-2012 school year, measuring college readiness.

(c) Before the beginning of the 2011-2012 school year, the agency, in collaboration with the Texas Higher Education Coordinating Board, shall gather data and conduct research studies to substantiate the correlation between a certain level of performance by students on the Algebra II and English III end-of-course assessment instruments and college readiness.

(d) Studies under Subsection (c) must include an evaluation of any need for remediation courses to facilitate college readiness.

(e) Based on the results of the studies conducted under Subsection (c), the commissioner of education and the commissioner of higher education shall establish student performance standards for the Algebra II and English III end-of-course assessment instruments indicating that students have attained college readiness.

(f) The agency, in collaboration with the Texas Higher Education Coordinating Board, shall conduct research studies similar to the studies conducted under Subsection (c) for the appropriate science and social studies end-of-course assessment instruments. If the commissioner of education, in collaboration with the commissioner of higher education, determines that the research studies conducted under this subsection substantiate a correlation between a certain level of performance by students on science and social studies end-of-course assessment instruments and college readiness, the commissioner of education, in collaboration with the commissioner of higher education, as soon as practicable, may establish student performance standards for the science and social studies end-of-course assessment instruments indicating that students have attained college readiness.

(f-1) Not later than December 1, 2012, the agency and the Texas Higher Education Coordinating Board shall deliver to the lieutenant governor, the speaker of the house of representatives, and the clerks of the standing committees of the senate and the house of representatives with primary jurisdiction over public education and higher education a report that includes:

(1) an analysis of the feasibility of establishing college readiness performance standards for science and social studies end-of-course assessment instruments; and

(2) a summary of any implementation procedures adopted for each standard.

(f-2) Subsection (f-1) and this subsection expire January 1, 2013.

(g) The agency, in collaboration with the Texas Higher Education Coordinating Board, shall continue to gather data to perform studies as provided under Subsections (c) and (f) at least once every three years.

(h) The agency and the Texas Higher Education Coordinating Board shall periodically review the college readiness performance standards established under this section and compare the performance standards to performance standards established nationally and internationally for comparable assessment instruments. Following each review, the agency and the Texas Higher Education Coordinating Board shall deliver to the lieutenant governor, the speaker of the house of representatives, and the clerks of the standing committees of the senate and the house of representatives with primary jurisdiction over public education and higher education a report on the results of the review indicating whether the college readiness performance standards established under this section are sufficiently rigorous to prepare students in this state to compete academically with students nationally and internationally. If the agency and the Texas Higher Education Coordinating Board determine that the college readiness performance standards established under this section are not sufficiently rigorous, the agency and the Texas Higher Education Coordinating Board shall recommend changes to the college readiness performance standards.

(i) The agency shall gather data and conduct research to substantiate any correlation between a certain level of performance by students on end-of-course assessment instruments and success in:

(1) military service; or

(2) a workforce training, certification, or other credential program at a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

Sec. 39.0241. ~~[SATISFACTORY]~~ PERFORMANCE STANDARDS.

(a) The commissioner ~~[Except as otherwise provided by this subsection, the State Board of Education]~~ shall determine the level of performance considered to be satisfactory on the assessment instruments.

(a-1) The commissioner of education, in collaboration with the commissioner of higher education, shall determine the level of performance necessary to indicate college readiness, as defined by Section 39.024(a).

(a-2) For the purpose of establishing performance across grade levels, the commissioner shall establish:

(1) the performance standards for the Algebra II and English III end-of-course assessment instruments, as provided under Section 39.024(b) and under Subsection (a);

(2) the performance standards for the Algebra I and English II end-of-course assessment instruments, as determined based on studies under Section 39.0242 that correlate student performance on the Algebra I and English II end-of-course assessment instruments with student performance on the Algebra II and English III assessment instruments;

(3) the performance standards for the English I end-of-course assessment instrument, as determined based on studies under Section 39.0242 that correlate student performance on the English I end-of-course assessment instrument with student performance on the English II assessment instrument;

(4) the performance standards for the grade eight assessment instruments, as determined based on studies under Section 39.0242 that correlate student performance on the grade eight assessment instruments with student performance on the Algebra I and English I end-of-course assessment instruments in the same content area; and

(5) the performance standards on the assessment instruments in each of grades three through seven, as determined based on studies under Section 39.0242 that correlate student performance in the same content area on the assessment instrument for each grade with student performance on the assessment instrument in the succeeding grade.

~~[The admission, review, and dismissal committee of a student being assessed under Section 39.023(b) shall determine the level of performance considered to be satisfactory on the assessment instruments administered to that student in accordance with criteria established by agency rule.]~~

(c) The agency may ~~shall~~ develop study guides for the assessment instruments administered under Sections 39.023(a) and (c). To assist parents in providing assistance during the period that school is recessed for summer, each school district shall make ~~distribute~~ the study guides available to parents of students who do not perform satisfactorily as determined by the commissioner under Subsection (a) on one or more parts of an assessment instrument administered under this subchapter.

(d) The agency shall develop and make available teacher training materials and other teacher training resources to assist teachers in enabling students of limited English proficiency to meet state performance expectations. The teacher training resources shall be designed to support intensive, individualized, and accelerated instructional programs developed by school districts for students of limited English proficiency.

(e) The commissioner shall retain a portion of the total amount of funds allotted under Section 42.152(a) that the commissioner considers appropriate to finance activities under Subsection ~~Subsections~~ (c) and may retain a portion for activities under Subsection (d) and for intensive programs of instruction for students of limited English proficiency offered by school districts and shall reduce each district's allotment proportionately.

Sec. 39.0242. PERFORMANCE STANDARDS: RESEARCH STUDIES AND IMPLEMENTATION OF STANDARDS. (a) During the 2009-2010 and 2010-2011 school years, the agency shall collect data through:

(1) the annual administration of assessment instruments required under Section 39.023(a) in grades three through eight; and

(2) the administration to a sufficiently large sample of students throughout the state of end-of-course assessment instruments required under Section 39.023(c) for the purpose of setting performance standards.

(b) Before the beginning of the 2011-2012 school year, the agency shall analyze the data collected under Subsection (a) to substantiate:

(1) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the grade three, four, five, six, or seven assessment instruments with satisfactory performance under the same performance standard on the assessment instruments in the same content area for the next grade level;

(2) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the grade eight assessment instruments with satisfactory performance under the same performance standard on the Algebra I and English I end-of-course assessment instruments in the same content area;

(3) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the English I end-of-course assessment instrument with satisfactory performance under the same performance standard on the English II end-of-course assessment instrument;

(4) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the English II end-of-course assessment instrument with satisfactory performance under the same performance standard on the English III end-of-course assessment instrument; and

(5) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the Algebra I end-of-course assessment instrument with satisfactory performance under the same performance standard on the Algebra II end-of-course assessment instrument.

(c) Studies under this section must include an evaluation of any need for remediation courses to facilitate college readiness.

(d) The agency shall continue to gather data and perform studies as provided under this section at least once every three years. If the data do not support the correlation between student performance standards and college readiness, the commissioner of education, in collaboration with the commissioner of higher education, shall revise the standard of performance considered to be satisfactory.

(e) Based on the data collected and studies performed periodically under Subsection (d), the commissioner shall increase the rigor of the performance standard established under Section 39.0241(a) as the commissioner determines necessary.

SECTION 54. Section 39.025, Education Code, is amended by amending Subsections (a), (a-1), (b), (b-1), (b-2), and (f) and adding Subsections (a-2), (a-3), and (c-1) to read as follows:

(a) The commissioner shall adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. A student is required to achieve, in each subject in the foundation curriculum under Section 28.002(a)(1), a cumulative score that is at least equal to the product of the number of end-of-course assessment instruments administered to the student in that subject and a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a) ~~[70, with each end-of-course assessment instrument scored on a scale of 100]~~. A student must achieve a minimum score as determined by the commissioner to be within a reasonable range of the scale score under Section 39.0241(a) ~~[of at least 60]~~ on an end-of-course assessment instrument for the score to count towards the student's cumulative score. For purposes of this subsection, a student's cumulative score is determined using the student's highest score on each end-of-course assessment instrument administered to the student. A student may not receive a high school diploma until the student has performed satisfactorily on the end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.

(a-1) The commissioner by rule shall determine a method by which a student's satisfactory performance on an advanced placement test, international baccalaureate examination, an SAT ~~[a Scholastic Assessment Test (SAT)]~~ Subject Test, or another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c) may be used as a factor in determining whether the student satisfies the requirements of Subsection (a), including the cumulative score requirement of that subsection. The commissioner by rule may determine a method by which a student's satisfactory performance on a Preliminary Scholastic Assessment Test (PSAT) assessment or a preliminary American College Test (ACT) assessment may be used as a factor in determining whether the student satisfies the requirements of Subsection (a).

(a-2) In addition to the cumulative score requirements under Subsection (a), a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) for English III and Algebra II end-of-course assessment instruments to graduate under the recommended high school program.

(a-3) In addition to the cumulative score requirements under Subsection (a), a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a-1) on English III and Algebra II end-of-course assessment instruments in order to graduate under the advanced high school program.

(b) Each time an end-of-course assessment instrument is administered, a student who failed to achieve a minimum score under Subsection (a) [of at least 60 on the assessment instrument] shall retake the assessment instrument. A student who fails to perform satisfactorily on an Algebra II or English III end-of-course assessment instrument under the college readiness performance standard, as provided under Section 39.024(b), may retake the assessment instrument. Any other student may retake an end-of-course assessment instrument for any reason. A student is not required to retake a course as a condition of retaking an end-of-course assessment instrument.

(b-1) A school district shall provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) [achieve a score of at least 70] on an end-of-course assessment instrument with accelerated instruction in the subject assessed by the assessment instrument.

(b-2) If a school district determines that a student, on completion of grade 11, is unlikely to achieve the cumulative score requirements for one or more subjects prescribed by Subsection (a) for receiving a high school diploma, the district shall require the student to enroll in a corresponding content-area college preparatory course for which an end-of-course assessment instrument has been adopted, if available. A student who enrolls in a college preparatory course described by this subsection shall be administered an end-of-course assessment instrument for the course, with the end-of-course assessment instrument scored on a scale as determined by the commissioner not to exceed 20 percent of the cumulative score requirements required to graduate as determined under Subsection (a) [of 40]. A student may use the student's score on the end-of-course assessment instrument for the college preparatory course towards satisfying the cumulative score requirements prescribed by Subsection (a).

(c-1) A school district may not administer an assessment instrument required for graduation administered under this section as this section existed before September 1, 1999. A school district may administer to a student who failed to perform satisfactorily on an assessment instrument described by this subsection an alternate assessment instrument designated by the commissioner. The commissioner shall determine the level of performance considered to be satisfactory on an alternate assessment instrument. The district may not administer to the student an assessment instrument or a part of an assessment instrument that assesses a subject that was not assessed in an assessment instrument required for graduation administered under this section as this section existed before September 1, 1999. The commissioner shall make available to districts information necessary to administer the alternate assessment instrument authorized by this subsection. The commissioner's determination regarding

designation of an appropriate alternate assessment instrument under this subsection and the performance required on the assessment instrument is final and may not be appealed.

(f) The commissioner shall by rule adopt a transition plan to implement the amendments made by Chapter 1312 (**SB 1031**), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments ~~[to this section and Sections 39.023(a) and (c) and 39.051(b)(5)].~~ The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the 2011-2012 school year. During the period under which the transition to end-of-course assessment instruments is made:

(1) for students entering a grade above the ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures ~~[ratings]~~ under this chapter ~~[Subchapter D]~~ the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by Chapter 1312 (**SB 1031**), Acts of the 80th Legislature, Regular Session, 2007;

(2) a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on each required assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (**SB 1031**), Acts of the 80th Legislature, Regular Session, 2007; and

(3) ~~(2)~~ the agency may defer releasing assessment instrument questions and answer keys as required by Section 39.023(e) to the extent necessary to develop additional assessment instruments.

SECTION 55. Section 39.0262(a), Education Code, is amended to read as follows:

(a) In a subject area for which assessment instruments are administered under Section 39.023, a school district may not administer locally required ~~[district required]~~ assessment instruments designed to prepare students for state-administered assessment instruments to any student on more than 10 percent of the instructional days in any school year. A campus-level planning and decision-making committee established under Section 11.251 may limit the administration of locally required assessment instruments under this subsection to 10 percent or a lower percentage of the instructional days in any school year.

SECTION 56. Section 39.027, Education Code, is amended by amending Subsections (a) and (e) and adding Subsection (a-1) to read as follows:

(a) A student may be administered an accommodated or alternative assessment instrument or may be granted an exemption ~~[exempted]~~ from or a postponement of the administration of an assessment instrument under:

(1) ~~[Section 39.023(a) or (b) if the student is eligible for a special education program under Section 29.003 and the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level;~~

~~[(2) Section 39.023(c) or (d) if the student is eligible for a special education program under Section 29.003 and:~~

~~[(A) the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level; or~~

~~[(B) the assessment instrument, even with allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's admission, review, and dismissal committee;~~

~~[(3)] Section 39.023(a), (b), (c), or (l) for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency, as defined by Section 29.052, and has not demonstrated proficiency in English as determined by the assessment system under Subsection (e); ~~or~~~~

~~(2) [(4)] Section 39.023(a), (b), (c), or (l) for a period of up to two years in addition to the exemption period authorized by Subdivision (1) [(3)] if the student has received an exemption under Subdivision (1) [(3)] and:~~

~~(A) is a recent unschooled immigrant; or~~

~~(B) is in a grade for which no assessment instrument in the primary language of the student is available; or~~

~~(3) Section 39.023(a), (b), (c), or (l) for a period of up to four years, in addition to the exemption period authorized under Subdivision (1), if the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.~~

~~(a-1) For purposes of this section, "unschooled asylee or refugee" means a student who:~~

~~(1) initially enrolled in a school in the United States as:~~

~~(A) an asylee as defined by 45 C.F.R. Section 400.41; or~~

~~(B) a refugee as defined by 8 U.S.C. Section 1101;~~

~~(2) has a visa issued by the United States Department of State with a Form I-94 Arrival/Departure record, or a successor document, issued by the United States Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and~~

~~(3) as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Section 28.002, as determined by the language proficiency assessment committee established under Section 29.063.~~

(e) The commissioner shall develop an assessment system that shall be used for evaluating the academic progress, including reading proficiency in English, of all students of limited English proficiency, as defined by Section 29.052. A student who is exempt from the administration of an assessment instrument under Subsection (a)(1) or (2) ~~[(a)(3) or (4)]~~ who achieves reading proficiency in English as determined by the assessment system developed under this subsection shall be administered the assessment instruments described by Sections 39.023(a) and (c). The performance under the assessment system developed under this subsection of students to whom Subsection (a)(1) or (2) ~~[(a)(3) or (4)]~~ applies shall be included in the ~~[academic excellence]~~ indicator ~~systems~~ ~~[system]~~ under

Section 39.301, as applicable ~~[Section 39.051]~~, the performance report under Section 39.306 ~~[39.053]~~, and the comprehensive annual report under Section 39.332 ~~[39.182]~~. This information shall be provided in a manner that is disaggregated by the bilingual education or special language program, if any, in which the student is enrolled.

SECTION 57. Section 39.033(b), Education Code, is amended to read as follows:

(b) An agreement under this section must require the private school to:

(1) as determined appropriate by the commissioner, provide to the commissioner the information described by Sections 39.053(c) and 39.301(c); ~~[Section 39.051(b)]~~ and

(2) ~~[to]~~ maintain confidentiality in compliance with Section 39.030.

SECTION 58. Section 39.034, Education Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) The agency shall determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on, as applicable:

(1) the grade five assessment instruments;

(2) the grade eight assessment instruments; and

(3) the end-of-course assessment instruments required under this subchapter for graduation.

(d-1) The agency shall report the necessary annual improvement required under Subsection (d) to the district. Each year, the report must state whether the student fell below, met, or exceeded the necessary target for improvement.

SECTION 59. Subchapters C through L, Chapter 39, Education Code, as amended by Section 2.25, Chapter 396 (SB 4), and Section 4, Chapter 931 (HB 2307), Acts of the 76th Legislature, Regular Session, 1999, are amended to read as follows:

SUBCHAPTER C. ACCREDITATION ~~[PERFORMANCE INDICATORS~~
~~[SUBCHAPTER D. ACCREDITATION STATUS]~~

Sec. 39.051 ~~[39.074]~~. ACCREDITATION STATUS. ~~[(a)]~~ Accreditation of a school district is determined in accordance with this subchapter ~~[section]~~. The commissioner by rule shall determine in accordance with this subchapter the criteria for ~~[define]~~ the following accreditation statuses:

(1) accredited;

(2) accredited-warned; and

(3) accredited-probation.

Sec. 39.052. DETERMINATION OF ACCREDITATION STATUS OR PERFORMANCE RATING. (a) ~~[(a)]~~ Each year, the commissioner shall determine the accreditation status of each school district.

(b) In determining the accreditation status of a school district, the commissioner:

(1) shall evaluate and consider:

(A) [the] performance on student achievement indicators described by Section 39.053(c) [of the district under:

~~[(A) the academic accountability system under Section 39.072];~~

and

(B) performance under the financial accountability rating system developed under Subchapter D ~~[F]~~; and

(2) may evaluate and consider:

(A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:

(i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;

(ii) the high school graduation requirements under Section 28.025; or

(iii) an item listed under Sections 7.056(e)(3)(C)-(I) that applies to the district;

(B) the effectiveness of the district's programs for special populations; and

(C) the effectiveness of the district's career and technology program.

(c) Based on a school district's performance under Subsection (b), the commissioner shall:

(1) assign each ~~[a]~~ district an accreditation status; or

(2) revoke the accreditation of the district and order closure of the district ~~[under this subchapter]~~.

(d) A school district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required under this subchapter.

(e) ~~[(d)]~~ The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation or a campus that performs below a standard required under this subchapter that the performance of the district or campus is below a standard required under this subchapter. If the district received an accreditation status of accredited-warned or accredited-probation for the preceding school year or if any campus performed below a standard required under this subchapter in the preceding school year, the commissioner shall notify the district or campus of a subsequent such designation on or before June 15 ~~[section]~~. The commissioner shall require the district to notify the parents of students enrolled in the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.

(f) ~~[(e)]~~ A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.

(g) ~~[(f)]~~ This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

Sec. 39.053. PERFORMANCE INDICATORS: STUDENT ACHIEVEMENT. (a) The commissioner shall adopt a set of indicators of the quality of learning and student achievement. The commissioner biennially shall review the indicators for the consideration of appropriate revisions.

~~[Sec. 39.051. ACADEMIC EXCELLENCE INDICATORS. (a) The State Board of Education shall adopt a set of indicators of the quality of learning on a campus. The State Board of Education biennially shall review the indicators for the consideration of appropriate revisions.]~~

(b) Performance on the student achievement indicators adopted under this section shall be compared to state-established standards. ~~[The degree of change from one school year to the next in performance on each indicator adopted under this section shall also be considered.]~~ The indicators must be based on information that is disaggregated by race, ethnicity, ~~[gender,]~~ and socioeconomic status.

(c) Indicators of student achievement adopted under this section [and] must include:

(1) the results of assessment instruments required under Sections 39.023(a), (c), and (l), including the results of assessment instruments required for graduation retaken by a student, aggregated across [by] grade levels by [level and] subject area, including:

(A) for the performance standard determined by the commissioner under Section 39.0241(a):

(i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area; and

(B) for the college readiness performance standard as determined under Section 39.0241:

(i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area;

(2) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education; and

(3) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.).

(d) For purposes of Subsection (c), the commissioner by rule shall determine the period within which a student must retake an assessment instrument for that assessment instrument to be considered in determining the performance rating of the district under Section 39.054.

(e) [(Pub. L. No. 107 110);

[(4) student attendance rates;

[(5) the percentage of graduating students who attain scores on the questions developed for end-of-course assessment instruments under Section 39.0233(a) that are equivalent to a passing score on the assessment instrument required under Section 51.3062;

[(6) the percentage of graduating students who meet the course requirements established for the recommended high school program by State Board of Education rule;

[(7) the results of the Scholastic Assessment Test (SAT), the American College Test (ACT), articulated postsecondary degree programs described by Section 61.852, and certified workforce training programs described by Chapter 311, Labor Code;

[(8) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(e), the results of assessments administered under that section, the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;

[(9) for students who have failed to perform satisfactorily on an assessment instrument required under Section 39.023(a) or (c), the numerical progress of those students grouped by percentage on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

[(10) the percentage of students exempted, by exemption category, from the assessment program generally applicable under this chapter;

[(11) the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(3) and (4);

[(12) the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

[(13) the measure of progress toward preparation for postsecondary success; and

[(14) the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052.

[(b) 1) Performance on the indicators described by Subsections (b)(1), (2), (3), (8), (9), and (14) must be based on longitudinal student data that is disaggregated by the bilingual education or special language program, if any, in which students of limited English proficiency, as defined by Section 29.052, are

~~or former students of limited English proficiency were enrolled. If a student described by this subsection is not or was not enrolled in specialized language instruction, the number and percentage of those students shall be provided.~~

~~(e)~~ Performance on the student achievement indicators [indicator] under Subsections (c)(1) and (2) ~~[Subsection (b)(1)]~~ shall be compared to state standards and [7] required improvement[, and comparable improvement]. The state standard shall be established by the commissioner. Required improvement is ~~[defined as]~~ the progress necessary for the campus or district to meet state standards and, for the student achievement indicator under Subsection (c)(1), for its students to meet each of the performance standards as determined under Section 39.0241.

~~(f) [exit requirements as defined by the commissioner. Comparable improvement is derived by measuring campuses and districts against a profile developed from a total state student performance database which exhibits substantial equivalence to the characteristics of students served by the campus or district, including past academic performance, socioeconomic status, ethnicity, and limited English proficiency.]~~

~~(d)~~ Annually, the commissioner shall define the state standard for the current school year for each student achievement [exemplary, recognized, and unacceptable performance for each academic excellence] indicator described by Subsection (c) ~~[included under Subsections (b)(1) through (7)]~~ and shall project the state standards for each ~~[of those levels of performance for succeeding years. For the]~~ indicator for the following two school [under Subsection (b)(8), the commissioner shall define exemplary, recognized, and unacceptable performance based on student performance for the period covering both the current and preceding academic] years. The commissioner shall periodically raise the state standards for the student achievement indicator described by Subsection (c)(1)(B)(i) for accreditation as necessary to reach the goals of achieving, by not later than the 2019-2020 school year:

(1) student performance in this state, disaggregated by race, ethnicity, and socioeconomic status, that ranks nationally in the top 10 states in terms of college readiness; and

(2) student performance, including the percentage of students graduating under the recommended or advanced high school program, with no significant achievement gaps by race, ethnicity, and socioeconomic status.

~~(g)~~ In defining the required state standard [exemplary, recognized, and unacceptable performance] for the indicator described by Subsection (c)(2) ~~[indicators under Subsections (b)(2) and (4)]~~, the commissioner may not consider as a dropout ~~[or as]~~ a student ~~[who has failed to attend school a student]~~ whose failure to attend school results from:

- (1) the student's expulsion under Section 37.007; and
- (2) as applicable:

(A) adjudication as having engaged in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03, Family Code; or

(B) conviction of and sentencing for an offense under the Penal Code.

(g-1) In computing dropout and completion rates under Subsection (c)(2), the commissioner shall exclude:

(1) students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate;

(2) students who were previously reported to the state as dropouts;

(3) students in attendance who are not in membership for purposes of average daily attendance;

(4) students whose initial enrollment in a school in the United States in grades 7 through 12 was as unschooled refugees or asylees as defined by Section 39.027(a-1);

(5) students who are in the district exclusively as a function of having been detained at a county detention facility but are otherwise not students of the district in which the facility is located; and

(6) students who are incarcerated in state jails and federal penitentiaries as adults and as persons certified to stand trial as adults.

(h) [(e)] Each school district shall cooperate with the agency in determining whether a student is a dropout for purposes of accreditation and evaluating performance by school districts and campuses under this chapter [section].

(i) [(f) The indicator under Subsection (b)(1) must include the results of assessment instruments required under Section 39.023(b).]

[(g)] The commissioner by rule shall adopt accountability measures to be used in assessing the progress of students who have failed to perform satisfactorily as determined by the commissioner under Section 39.0241(a) or under the college readiness standard as determined under Section 39.0241 in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (l).

Sec. 39.054. METHODS AND STANDARDS FOR EVALUATING PERFORMANCE. (a) The commissioner shall adopt rules to evaluate school district and campus performance and, not later than August 8 of each year, assign each district and campus a performance rating that reflects acceptable performance or unacceptable performance. If a district or campus received a performance rating of unacceptable performance for the preceding school year the commissioner shall notify the district of a subsequent such designation on or before June 15.

(b) In evaluating performance, the commissioner shall evaluate against state standards and consider the performance of each campus in a school district and each open-enrollment charter school on the basis of the campus's or school's performance on the student achievement indicators adopted under Section 39.053(c).

(b-1) [39.072. ACCREDITATION STANDARDS. (a) The State Board of Education shall adopt rules to evaluate the performance of school districts and to assign to each district a performance rating as follows:

(1) exemplary (meets or exceeds state exemplary standards);

~~[(2) recognized (meets or exceeds required improvement and within 10 percent of state exemplary standards);~~

~~[(3) academically acceptable (below the exemplary and recognized standards but exceeds the academically unacceptable standards); or~~

~~[(4) academically unacceptable (below the state clearly unacceptable performance standard and does not meet required improvement).~~

~~[(b) The academic excellence indicators adopted under Sections 39.051(b)(1) through (8) and the district's current special education compliance status with the agency shall be the main considerations of the agency in the rating of the district under this section. Additional criteria in the rules may include consideration of:~~

~~[(1) compliance with statutory requirements and requirements imposed by rule of the State Board of Education under specific statutory authority that relate to:~~

~~[(A) reporting data through the Public Education Information Management System (PEIMS);~~

~~[(B) the high school graduation requirements under Section 28.025; or~~

~~[(C) an item listed in Sections 7.056(e)(3)(C) (I) that applies to the district;~~

~~[(2) the effectiveness of the district's programs for special populations; and~~

~~[(3) the effectiveness of the district's career and technology programs.~~

~~[(e) The agency shall evaluate against state standards and shall, not later than August 1 of each year, report the performance of each campus in a district and each open enrollment charter school on the basis of the campus's performance on the indicators adopted under Sections 39.051(b)(1) through (8).]~~

~~Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):~~

~~(1) [Subsection (b)(2) or (3)] must:~~

~~(A) be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and~~

~~(B) include the results of assessments required under Section 39.023; and~~

~~(2) may be based on the results of a special accreditation investigation conducted under Section 39.057.~~

~~(c) In evaluating school district and campus performance on the student achievement indicators adopted under Sections 39.053(c)(1) and (2), the commissioner shall define acceptable performance as meeting the state standard determined by the commissioner under Section 39.053(e) for the current school year based on:~~

~~(1) student performance in the current school year; or~~

~~(2) student performance as averaged over the current school year and the preceding two school years.~~

~~(d) In evaluating performance under Subsection (c), the commissioner:~~

(1) may assign an acceptable performance rating if the campus or district:

(A) performs satisfactorily on 85 percent of the measures the commissioner determines appropriate with respect to the student achievement indicators adopted under Sections 39.053(c)(1) and (2); and

(B) does not fail to perform satisfactorily on the same measure described by Paragraph (A) for two consecutive school years;

(2) may grant an exception under this subsection to a district or campus only if the performance of the district or campus is within a certain percentage, as determined by the commissioner, of the minimum performance standard established by the commissioner for the measure of evaluation; or

(3) may establish other performance criteria for a district or campus to obtain an exception under this subsection.

(d-1) The commissioner may consider alternative performance criteria to Subsection (d)(1)(A) only in special circumstances, including campus or district performance on the same measure for student groups that are substantially similar in composition to all students on the same campus or district.

(e) [Notwithstanding any other provision of this code, for purposes of determining the performance of a school district under this chapter, including the accreditation status of the district, a student confined by court order in a residential program or facility operated by or under contract with the Texas Youth Commission, Texas Juvenile Probation Commission, or any other governmental entity, including a juvenile board, is not considered to be a student of the school district in which the program or facility is physically located. The performance of such a student on an assessment instrument or other academic excellence indicator adopted under Section 39.051 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located.

[See. 39.0721. GOLD PERFORMANCE RATING PROGRAM. (a) In addition to district and campus performance ratings reported under Section 39.072, the commissioner shall develop a gold performance rating program based on enhanced performance. The agency shall administer the program.

[(b) Under the gold performance rating program, a district or campus rated exemplary under Section 39.072 is eligible for an exemplary gold rating, a district or campus rated recognized is eligible for a recognized gold rating, and a district or campus rated academically acceptable is eligible for an academically acceptable gold rating.

[(c) The performance standards on which a gold performance rating is based should include:

[(1) student proficiency on:

[(A) assessment instruments administered under Sections 39.023(a), (c), and (l); and

[(B) other measures of proficiency determined by the commissioner;

[(2) student performance on one or more nationally recognized norm referenced assessment instruments;

- ~~[(3) improvement in student performance;~~
- ~~[(4) in the case of middle or junior high school campuses, student proficiency in mathematics, including algebra; and~~
- ~~[(5) in the case of high school campuses:

 - ~~[(A) the extent to which graduating students are academically prepared to attend institutions of higher education;~~
 - ~~[(B) the percentage of students who take advanced placement tests and student performance on those tests; and~~
 - ~~[(C) the percentage of students who take and successfully complete advanced academic courses or college level course work offered through dual credit programs provided under agreements between high schools and institutions of higher education.~~~~
- ~~[(d) The commissioner may adopt rules as necessary to implement and administer this section.~~

~~[Sec. 39.073. DETERMINING ACCREDITATION STATUS. (a) The agency shall annually review the performance of each district and campus on the indicators adopted under Sections 39.051(b)(1) through (8) and determine if a change in the accreditation status of the district is warranted. The commissioner may determine how all indicators adopted under Section 39.051(b) may be used to determine accountability ratings and to select districts and campuses for acknowledgment.~~

~~[(b)] Each annual performance review under this section shall include an analysis of the student achievement indicators adopted under Section 39.053(c) [~~Sections 39.051(b)(1) through (8)~~] to determine school district and campus performance in relation to:~~

- ~~(1) standards established for each indicator; and~~
- ~~(2) required improvement as defined under Section 39.053(e) [~~39.051(e)~~; and~~
- ~~[(3) comparable improvement as defined by Section 39.051(e)].~~

~~[(e) A district's accreditation rating may be raised or lowered based on the district's performance or may be lowered based on the unacceptable performance of one or more campuses in the district.~~

~~[(d) The commissioner shall notify a district that is rated academically unacceptable that the performance of the district or a campus in the district is below each standard under Subsection (b) and shall require the district to notify property owners and parents in the district of the lowered accreditation rating and its implication.~~

~~[(e) In determining a district's accreditation rating, the agency shall consider:~~

- ~~[(1) the district's current special education compliance status with the agency; and~~
- ~~[(2) the progress of students who have failed to perform satisfactorily in the preceding school year on an assessment instrument required under Section 39.023(a), (e), or (f).]~~

(f) In the computation of dropout rates under Section 39.053(c)(2) [39.051(b)(2)], a student who is released from a juvenile pre-adjudication secure detention facility or juvenile post-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in school may not be considered to have dropped out from the [campus or] school district or campus serving the facility or center unless that district or campus [or district] is the one to which the student is regularly assigned. The agency may not limit an appeal relating to dropout computations under this subsection.

Sec. 39.055. STUDENT ORDERED BY A JUVENILE COURT NOT CONSIDERED FOR ACCOUNTABILITY PURPOSES. Notwithstanding any other provision of this code, for purposes of determining the performance of a school district or campus under this chapter, a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Youth Commission, the Texas Juvenile Probation Commission, a juvenile board, or any other governmental entity is not considered to be a student of the school district in which the program or facility is physically located. The performance of such a student on an assessment instrument or other student achievement indicator adopted under Section 39.053 or reporting indicator adopted under Section 39.301 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located.

Sec. 39.056 [39.074]. ON-SITE INVESTIGATIONS. (a) The commissioner may:

(1) direct the agency to conduct on-site investigations of a school district at any time to answer any questions concerning a program, including special education, required by federal law or for which the district receives federal funds; and

(2) [raise or lower the performance rating] as a result of the investigation, change the accreditation status of a district, change the accountability rating of a district or campus, or withdraw a distinction designation under Subchapter G.

(b) The commissioner shall determine the frequency of on-site investigations by the agency according to annual comprehensive analyses of student performance and equity in relation to the student achievement [academic excellence] indicators adopted under Section 39.053 [39.051].

(c) In making an on-site accreditation investigation, the investigators shall obtain information from administrators, teachers, and parents of students enrolled in the school district. The investigation may not be closed until information is obtained from each of those sources. The State Board of Education shall adopt rules for:

(1) obtaining information from parents and using that information in the investigator's report; and

(2) obtaining information from teachers in a manner that prevents a [campus or] district or campus from screening the information.

(d) The agency shall give written notice to the superintendent and the board of trustees of a school district of any impending investigation of the district's accreditation.

(e) ~~[If an annual review indicates low performance on one or more of the indicators under Sections 39.051(b)(1) through (8) of one or more campuses in a district, the agency may conduct an on-site evaluation of those campuses only.]~~

~~[(f)]~~ The investigators shall report orally and in writing to the board of trustees of the school district and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers.

Sec. 39.057 ~~[39.075]~~. SPECIAL ACCREDITATION INVESTIGATIONS.

(a) The commissioner shall authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section; ~~[(e)]~~

(9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (l);

(10) when excessive numbers of students graduate under the minimum high school program;

(11) when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other course determined by the commissioner as distinguishing between students participating in the recommended high school program from students participating in the minimum high school program;

(12) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation; or

(13) as the commissioner otherwise determines necessary.

(b) If the agency's findings in an investigation under Subsection (a)(6) indicate that the board of trustees has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board.

(c) ~~(b-1)~~ The commissioner may authorize special accreditation investigations to be conducted in response to repeated complaints submitted to the agency concerning imposition of excessive paperwork requirements on classroom teachers.

(d) ~~(e)~~ Based on the results of a special accreditation investigation, the commissioner may:

(1) take appropriate action under Subchapter E ~~[G]~~;

(2) lower the school district's accreditation status or a district's or campus's accountability rating; or

(3) take action under both Subdivisions (1) and (2).

~~(e) [e] Based on the results of a special accreditation investigation, the commissioner may lower the district's accreditation rating and may take appropriate action under Subchapter G.~~ Regardless of whether the commissioner lowers the school district's accreditation status or a district's or campus's performance rating under Subsection (d) ~~[rating]~~, the commissioner may take action under Sections 39.102(a)(1) through (8) or Section 39.103 ~~[39.131(a)(1) through (8)]~~ if the commissioner determines that the action is necessary to improve any area of a district's or campus's performance, including the district's financial accounting practices.

Sec. 39.058 ~~[39.076]~~. CONDUCT OF INVESTIGATIONS. (a) The agency shall adopt written procedures for conducting on-site investigations under this subchapter. The agency shall make the procedures available to the complainant, the alleged violator, and the public. Agency staff must be trained in the procedures and must follow the procedures in conducting the investigation.

(b) After completing an investigation, the agency shall present preliminary findings to any person the agency finds has violated a law, rule, or policy. Before issuing a report with its final findings, the agency must provide a person the agency finds has violated a law, rule, or policy an opportunity for an informal review by the commissioner or a designated hearing examiner.

SUBCHAPTER D ~~[F]~~. FINANCIAL ACCOUNTABILITY

Sec. 39.081 ~~[39.204]~~. DEFINITIONS. In this subchapter:

(1) "Parent" includes a guardian or other person having lawful control of a student.

(2) "System" means a [the] financial accountability rating system developed under this subchapter.

Sec. 39.082 [39.202]. DEVELOPMENT AND IMPLEMENTATION. (a) The commissioner shall, in consultation with the comptroller, develop and implement separate [a] financial accountability rating systems [system] for school districts and open-enrollment charter schools in this state that:

(1) distinguish [distinguishes] among school districts and distinguish among open-enrollment charter schools, as applicable, based on levels of financial performance; and

(2) include [includes] procedures to:

(A) provide additional transparency to public education finance;
and

(B) enable the commissioner and school district and open-enrollment charter school administrators to provide meaningful financial oversight and improvement.

(b) The system must include uniform indicators adopted by the commissioner by which to measure the [a-district's] financial management performance of a district or open-enrollment charter school.

(c) The system may not include an indicator under Subsection (b) or any other performance measure that:

(1) requires a school district to spend at least 65 percent or any other specified percentage of district operating funds for instructional purposes; or

(2) lowers the financial management performance rating of a school district for failure to spend at least 65 percent or any other specified percentage of district operating funds for instructional purposes.

Sec. 39.0821. COMPTROLLER REVIEW OF RESOURCE ALLOCATION PRACTICES. (a) The comptroller shall identify school districts and campuses that use resource allocation practices that contribute to high academic achievement and cost-effective operations. In identifying districts and campuses under this section, the comptroller shall:

(1) evaluate existing academic accountability and financial data by integrating the data;

(2) rank the results of the evaluation under Subdivision (1) to identify the relative performance of districts and campuses; and

(3) identify potential areas for district and campus improvement.

(b) In reviewing resources allocation practices of districts and campuses under this section, the comptroller shall ensure resources are being used for the instruction of students by evaluating:

(1) the operating cost for each student;

(2) the operating cost for each program; and

(3) the staffing cost for each student.

Sec. 39.0822. FINANCIAL SOLVENCY REVIEW REQUIRED. (a) The agency shall develop a review process to anticipate the future financial solvency of each school district. The review process shall analyze:

(1) district revenues and expenditures for the preceding school year;
and

(2) projected district revenues and expenditures for the current school year and the following two school years.

(b) In analyzing the information under Subsection (a), the review process developed must consider, for the preceding school year, the current school year, and the following two school years, as appropriate:

(1) student-to-staff ratios relative to expenditures, including average staff salaries;

(2) the rate of change in the district unreserved general fund balance;

(3) the number of students enrolled in the district;

(4) the adopted tax rate of the district;

(5) any independent audit report prepared for the district; and

(6) actual district financial information for the first quarter.

(c) The agency shall consult school district financial officers and public finance experts in developing the review process under this section.

(d) The agency shall develop an electronic-based program for school districts to use in submitting information to the agency for purposes of this section. Each district shall update information for purposes of the program within the period prescribed by the commissioner. The commissioner shall adopt rules under this subsection to allow a district to enter estimates of critical data into the program before the district adopts its budget. The program must:

(1) be capable of importing, to the extent practicable, data a district has previously submitted to the agency;

(2) include an entry space that allows a district to enter information explaining any irregularity in data submitted; and

(3) provide alerts for:

(A) a student-to-staff ratio that is significantly outside the norm;

(B) a rapid depletion of the district general fund balance; and

(C) a significant discrepancy between actual budget figures and

projected revenues and expenditures.

(e) An alert in the program developed under Subsection (d) must be developed to notify the agency immediately on the occurrence of a condition described by Subsection (d)(3). After the agency is alerted, the agency shall immediately notify the affected school district regarding the condition triggering the alert.

Sec. 39.0823. PROJECTED DEFICIT. (a) If the review process under Section 39.0822 indicates a projected deficit for a school district general fund within the following three school years, the district shall provide the agency interim financial reports, supplemented by staff and student count data, as needed, to evaluate the district's current budget status.

(b) If the interim financial data provided under Subsection (a) substantiates the projected deficit, the school district shall develop a financial plan and submit the plan to the agency for approval. The agency may approve the plan only if the agency determines the plan will permit the district to avoid the projected insolvency.

(c) The commissioner shall assign a school district an accredited-warned status if:

(1) the district fails to submit a plan as provided by Subsection (b);

(2) the district fails to obtain approval from the agency for a plan as provided by Subsection (b);

(3) the district fails to comply with a plan approved by the agency under Subsection (b); or

(4) the agency determines in a subsequent school year, based on financial data submitted by the district, that the approved plan for the district is no longer sufficient or is not appropriately implemented.

Sec. 39.083 [~~39.203~~]. REPORTING. (a) The commissioner shall develop, as part of the system, a reporting procedure under which:

(1) each school district is required to prepare and distribute an annual financial management report; and

(2) the public is provided an opportunity to comment on the report at a hearing.

(b) The annual financial management report must include:

(1) a description of the district's financial management performance based on a comparison, provided by the agency, of the district's performance on the indicators adopted under Section 39.082(b) [~~39.202(b)~~] to:

(A) state-established standards; and

(B) the district's previous performance on the indicators; [~~and~~]

(2) a description of the data submitted using the electronic-based program developed under Section 39.0822; and

(3) any descriptive information required by the commissioner.

(c) The report may include:

(1) information concerning the district's:

(A) financial allocations;

(B) tax collections;

(C) financial strength;

(D) operating cost management;

(E) personnel management;

(F) debt management;

(G) facility acquisition and construction management;

(H) cash management;

(I) budgetary planning;

(J) overall business management;

(K) compliance with rules; and

(L) data quality; and

(2) any other information the board of trustees determines to be necessary or useful.

(d) The board of trustees of each school district shall hold a public hearing on the report. The board shall give notice of the hearing to owners of real property in the district and to parents of district students. In addition to other notice required by law, notice of the hearing must be provided:

(1) to a newspaper of general circulation in the district; and

(2) through electronic mail to media serving the district.

(e) After the hearing, the report shall be disseminated in the district in the manner prescribed by the commissioner.

Sec. 39.084. POSTING OF ADOPTED BUDGET. (a) On final approval of the budget by the board of trustees, the school district shall post on the district's Internet website a copy of the budget adopted by the board of trustees. The district's Internet website must prominently display the electronic link to the adopted budget.

(b) The district shall maintain the adopted budget on the district's Internet website until the third anniversary of the date the budget was adopted.

Sec. 39.085 [39.204]. RULES. The commissioner shall adopt rules as necessary for the implementation and administration of this subchapter.

SUBCHAPTER E [G]. ACCREDITATION INTERVENTIONS AND SANCTIONS

Sec. 39.102 [39.134]. INTERVENTIONS AND SANCTIONS FOR DISTRICTS. (a) If a school district does not satisfy the accreditation criteria under Section 39.052 [39.071], the academic performance standards under Section 39.053 or 39.054 [39.072], or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:

(1) issue public notice of the deficiency to the board of trustees;

(2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the insufficient [unacceptable] performance, the improvements in performance expected by the agency, and the interventions and sanctions that may be imposed under this section if the performance does not improve;

(3) order the preparation of a student achievement improvement plan that addresses each student achievement [academic excellence] indicator under Section 39.053(c) for which the district's performance is insufficient [unacceptable], the submission of the plan to the commissioner for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;

(5) arrange an on-site investigation of the district;

(6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;

(7) appoint a conservator to oversee the operations of the district;

(8) appoint a management team to direct the operations of the district in areas of insufficient [unacceptable] performance or require the district to obtain certain services under a contract with another person;

(9) if a district has a current accreditation status of accredited-warned or accredited-probation, fails to satisfy any standard under Section 39.054(e) [is rated academically unacceptable], or fails to satisfy financial accountability standards as determined by commissioner rule, appoint a board of managers to exercise the powers and duties of the board of trustees;

(10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has failed to satisfy any standard under Section 39.054(e) [~~been rated academically unacceptable~~], or has failed to satisfy financial accountability standards as determined by commissioner rule, revoke the district's accreditation and:

(A) order closure of the district and annex the district to one or more adjoining districts under Section 13.054; or

(B) in the case of a home-rule school district or open-enrollment charter school, order closure of all programs operated under the district's or school's charter; or

(11) if a district has failed to satisfy any standard under Section 39.054(e) [~~been rated academically unacceptable for two consecutive school years, including the current school year,~~] due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:

(A) ordering the development of a dropout prevention plan for approval by the commissioner;

(B) restructuring the district or appropriate school campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Section 29.081;

(C) ordering lower student-to-counselor ratios on school campuses with high dropout rates; and

(D) ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.

(b) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for two consecutive school years, including the current school year, a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees.

Sec. 39.103 [~~39.132~~]. INTERVENTIONS AND SANCTIONS FOR [~~ACADEMICALLY UNACCEPTABLE~~] CAMPUSES. (a) If a campus performance is below any standard under Section 39.054(e), the commissioner [~~39.073(b), the campus is considered an academically unacceptable campus. The commissioner may permit the campus to participate in an innovative redesign of the campus to improve campus performance or~~] shall take [~~any of the other following~~] actions, to the extent the commissioner determines necessary, as provided by this subchapter.

(b) For a campus described by Subsection (a), the commissioner, to the extent the commissioner determines necessary, may:

(1) [~~issue public notice of the deficiency to the board of trustees;~~

~~(2) order a hearing conducted by the board of trustees at the campus for the purpose of:~~

~~[(A) notifying the public of the unacceptable performance, the improvements in performance expected by the agency, and the sanctions that may be imposed under this section if the performance does not improve within a designated period of time; and~~

~~[(B) soliciting public comment on the initial steps being taken to improve performance;~~

~~[(3) order the preparation of a report regarding the parental involvement program at the campus and a plan describing strategies for improving parental involvement at the campus;~~

~~[(4) order the preparation of a report regarding the effectiveness of the district and campus level planning and decision making committees established under Subchapter F, Chapter 11, and a plan describing strategies for improving the effectiveness of those committees;~~

~~[(5) order the preparation of a student improvement plan that addresses each academic excellence indicator for which the campus's performance is unacceptable, the submission of the plan to the commissioner for approval, and implementation of the plan;~~

~~[(6)] order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees, the superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement; or~~

(2) establish a school community partnership team composed of members of the campus-level planning and decision-making committee established under Section 11.251 and additional community representatives as determined appropriate by the commissioner

~~[(7) appoint a campus intervention team under Section 39.1322].~~

(c) Notwithstanding the provisions of this subchapter, if the commissioner determines that a campus subject to interventions or sanctions under this subchapter has implemented substantially similar intervention measures under federal accountability requirements, the commissioner may accept the substantially similar intervention measures as measures in compliance with this subchapter.

Sec. 39.104 [39.1324]. INTERVENTIONS AND SANCTIONS FOR CHARTER SCHOOLS. (a) Interventions and sanctions [Sanctions] authorized under this chapter for a school district or campus apply in the same manner to an open-enrollment charter school.

(b) The commissioner shall adopt rules to implement procedures to impose any intervention or sanction provision under this chapter as those provisions relate to open-enrollment charter schools.

(c) In adopting rules under this section, the commissioner shall require that the charter of an open-enrollment charter school:

(1) be automatically revoked if the charter school is ordered closed under this chapter; and

(2) be automatically modified to remove authorization for an individual campus if the campus is ordered closed under this chapter.

(d) If interventions or sanctions are imposed on an open-enrollment charter school under the procedures provided by this chapter, a charter school is not entitled to an additional hearing relating to the modification, placement on probation, revocation, or denial of renewal of a charter as provided by Subchapter D, Chapter 12.

Sec. 39.105 ~~[39.1322]~~. ~~[TECHNICAL ASSISTANCE AND]~~ CAMPUS IMPROVEMENT PLAN ~~[INTERVENTION TEAMS]~~. (a) This section applies if ~~[#]~~ a campus performance satisfies performance standards under Section 39.054(e) ~~[is rated academically acceptable]~~ for the current school year but would not satisfy performance standards under Section 39.054(e) ~~[be rated as academically unacceptable]~~ if the ~~[performance]~~ standards to be used for the following school year were applied to the current school year. On request of~~[r]~~ the commissioner, the campus-level committee established under Section 11.251 shall revise and submit to the commissioner in an electronic format the portions of the campus improvement plan developed under Section 11.253 that are relevant to those areas for which the campus would not satisfy performance standards ~~[select and assign a technical assistance team to assist the campus in executing a school improvement plan and any other school improvement strategies the commissioner determines appropriate. The commissioner may waive the requirement to assign a technical assistance team under this subsection if the improvement in performance standards among all student groups, including special populations, over the preceding three years indicates that the campus is likely to be rated academically acceptable in the following school year].~~

(b) If the ~~[a]~~ campus to which this section applies is an open-enrollment charter school, the school shall establish a campus-level planning and decision-making committee as provided for through procedures as much as practicable the same as those provided by Sections 11.251(b)-(e) and develop a campus improvement plan as provided by Section 11.253. On request of the commissioner, the school shall submit to the commissioner in an electronic format the portions of the campus improvement plan that are relevant to those areas for which the campus would not satisfy performance standards ~~[has been identified as academically unacceptable under Section 39.132, the commissioner shall appoint a campus intervention team.~~

~~[(c) To the extent practicable, the commissioner shall select and assign the technical assistance team under Subsection (a) or the campus intervention team under Subsection (b) before the first day of instruction for the school year.~~

~~[(d) The commissioner may determine when the services of a technical assistance team or campus intervention team are no longer needed at a campus under this section].~~

Sec. 39.106 ~~[39.1323]~~. CAMPUS INTERVENTION TEAM ~~[PROCEDURES]~~. (a) If a campus performance is below any standard under Section 39.054(e), the commissioner shall assign a campus intervention team. A campus intervention team shall:

(1) conduct, with the involvement and advice of the school community partnership team, if applicable:

(A) a targeted ~~[comprehensive]~~ on-site needs assessment relevant to an area of insufficient performance ~~[evaluation]~~ of the campus as provided by Subsection (b) ~~[to determine the cause for the campus's low performance and lack of progress]; or~~

(B) if the commissioner determines necessary, a comprehensive on-site needs assessment, using the procedures provided by Subsection (b);

(2) recommend appropriate actions as provided by Subsection (c); including reallocation of resources and technical assistance, changes in school procedures or operations, staff development for instructional and administrative staff, intervention for individual administrators or teachers, waivers from state statute or rule, or other actions the team considers appropriate];

(3) assist in the development of a targeted [school] improvement plan [~~for student achievement~~]; ~~and~~

(4) assist the campus in submitting the targeted improvement plan to the board of trustees for approval and presenting the plan in a public hearing as provided by Subsection (e-1); and

(5) assist the commissioner in monitoring the progress of the campus in implementing the targeted [school] improvement plan [~~for improvement of student achievement~~].

(b) ~~An [A campus intervention team assigned under Section 39.1322 to a campus shall conduct a comprehensive]~~ on-site needs assessment of the campus under Subsection (a) must [to] determine the contributing education-related and other [cause] factors resulting in the campus's low performance and lack of progress. The team shall use all of the following guidelines and procedures relevant to each area of insufficient performance in conducting a targeted on-site needs assessment and shall use each of the following guidelines and procedures in conducting a [the] comprehensive on-site needs assessment [of the campus]:

(1) an assessment of the staff to determine the percentage of certified teachers who are teaching in their field, the percentage of teachers who are fully certified, the number of teachers with more [less] than three years of experience, and teacher retention [turnover] rates;

(2) compliance with the appropriate class-size rules and number of class-size waivers received;

(3) an assessment of the quality, quantity, and appropriateness of instructional materials, including the availability of technology-based instructional materials;

(4) a report on the parental involvement strategies and the effectiveness of the strategies;

(5) an assessment of the extent and quality of the mentoring program provided for new teachers on the campus and provided for experienced teachers on the campus who have less than two years of teaching experience in the subject or grade level to which the teacher is assigned;

(6) an assessment of the type and quality of the professional development provided to the staff;

(7) a demographic analysis of the student population, including student demographics, at-risk populations, and special education percentages;

(8) a report of disciplinary incidents and school safety information;

(9) financial and accounting practices;

(10) an assessment of the appropriateness of the curriculum and teaching strategies; ~~and~~

(11) compare the findings from Subdivisions (1) through (10) to other campuses serving the same grade levels within the district or to other campuses within the campus's comparison group if there are no other campuses within the district serving the same grade levels as the campus; and

(12) any other research-based data or information obtained from a data collection process that would assist the campus intervention team in:

(A) recommending an action under Subsection (c); and

(B) executing a targeted ~~[school]~~ improvement plan under Subsection (d-3) ~~[(d)]~~.

(c) On completing the on-site needs assessment ~~[evaluation]~~ under this section, the campus intervention team shall, with the involvement and advice of the school community partnership team, if applicable, recommend actions relating to any area of insufficient performance, including:

(1) reallocation of resources;

(2) technical assistance;

(3) changes in school procedures or operations;

(4) staff development for instructional and administrative staff;

(5) intervention for individual administrators or teachers;

(6) waivers from state statutes or rules; ~~[or]~~

(7) teacher recruitment or retention strategies and incentives provided by the district to attract and retain teachers with the characteristics included in Subsection (b)(1); or

(8) other actions the campus intervention team considers appropriate.

(d) The campus intervention team shall assist the campus in submitting the targeted improvement plan to the commissioner for approval.

(d-1) The commissioner may authorize a school community partnership team established under this subchapter to supersede the authority of and satisfy the requirements of establishing and maintaining a campus-level planning and decision-making committee under Subchapter F, Chapter 11.

(d-2) The commissioner may authorize a targeted improvement plan or updated plan developed under this subchapter to supersede the provisions of and satisfy the requirements of developing, reviewing, and revising a campus improvement plan under Subchapter F, Chapter 11.

(d-3) In executing the targeted ~~[a school]~~ improvement plan ~~[developed under Subsection (a)(3)]~~, the campus intervention team shall, if appropriate:

(1) assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs, ~~[if appropriate,]~~ and financial management;

(2) provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation, and budget analysis, to strengthen and improve the instructional programs at the campus; and

(3) require the district to develop a teacher recruitment and retention plan to address the qualifications and retention of the teachers at the campus ~~[submit the school improvement plan to the commissioner for approval]~~.

(e) For each year a campus is assigned an unacceptable performance rating, a ~~[A]~~ campus intervention team shall ~~[appointed under Section 39.1322(b)]~~:

(1) ~~shall~~ continue to work with a campus until:

(A) the campus satisfies all performance standards under Section 39.054(e) ~~[is rated academically acceptable]~~ for a two-year period; or

(B) the campus satisfies all performance standards under Section 39.054(e) ~~[is rated academically acceptable]~~ for a one-year period and the commissioner determines that the campus is operating and will continue to operate in a manner that improves student achievement; ~~and]~~

(2) assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement; and

(3) submit each updated plan described by Subdivision (2) to the board of trustees of the school district ~~[may continually update the school improvement plan, with approval from the commissioner, to meet the needs of the campus].~~

(e-1) After a targeted improvement plan or updated plan is submitted to the board of trustees of the school district, the board:

(1) shall conduct a hearing for the purpose of:

(A) notifying the public of the insufficient performance, the improvements in performance expected by the agency, and the intervention measures or sanctions that may be imposed under this subchapter if the performance does not improve within a designated period; and

(B) soliciting public comment on the targeted improvement plan or any updated plan;

(2) must post the targeted improvement plan on the district's Internet website before the hearing;

(3) may conduct one hearing relating to one or more campuses subject to a targeted improvement plan or an updated plan; and

(4) shall submit the targeted improvement plan or any updated plan to the commissioner for approval.

(f) Notwithstanding any other provision of this subchapter, if the commissioner determines that a campus for which an intervention is ordered under Subsection (a) ~~[Section 39.1322(b)]~~ is not fully implementing the campus intervention team's recommendations or targeted ~~[school]~~ improvement plan or updated plan, the commissioner may order the reconstitution of the campus as provided by Section 39.107.

Sec. 39.107 [39.1324]. RECONSTITUTION, REPURPOSING, ALTERNATIVE MANAGEMENT, AND CLOSURE [MANDATORY SANCTIONS]. (a) After [H] a campus has been identified as [academically] unacceptable for two consecutive school years, [including the current school year.] the commissioner shall order the reconstitution of the campus [and assign a campus intervention team].

(a-1) In reconstituting a [the] campus, a campus intervention team shall assist the campus in:

(1) developing an updated targeted [a school] improvement plan;

(2) submitting the updated targeted improvement plan to the board of trustees of the school district for approval and presenting the plan in a public hearing as provided by Section 39.106(e-1);

(3) ~~(2)~~ obtaining approval of the updated plan from the commissioner;

and

(4) ~~(3)~~ executing the plan on approval by the commissioner.

(b) The campus intervention team shall decide which educators may be retained at that campus. A principal who has been employed by the campus in that capacity during the full ~~[two-year]~~ period described by Subsection (a) may not be retained at that campus unless the campus intervention team determines that retention of the principal would be more beneficial to the student achievement and campus stability than removal.

(b-1) A teacher of a subject assessed by an assessment instrument under Section 39.023 may be retained only if the campus intervention team determines that a pattern exists of significant academic improvement by students taught by the teacher. If an educator is not retained, the educator may be assigned to another position in the district.

(b-2) For each year that a campus is considered to have an unacceptable performance rating, a campus intervention team shall:

(1) assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement;

(2) submit the updated plan to:

(A) the board of trustees of the school district; and

(B) the parents of campus students; and

(3) assist in submitting the updated plan to the commissioner for approval.

(c) A campus subject to Subsection (a) shall implement the updated targeted [school] improvement plan as approved by the commissioner. The commissioner may appoint a monitor, conservator, management team, or ~~[a]~~ board of managers to the district to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted [school] improvement plan. In making appointments under this subsection, the commissioner shall consider individuals who have demonstrated success in managing campuses with student populations similar to the campus at which the individual appointed will serve.

(d) ~~If [Notwithstanding any other provision of this subchapter, if]~~ the commissioner determines that the ~~[a]~~ campus ~~[subject to Subsection (a)]~~ is not fully implementing the updated targeted [school] improvement plan or if the students enrolled at the campus fail to demonstrate substantial improvement in the areas targeted by the updated plan, the commissioner may order:

(1) repurposing of the campus under this section;

(2) ~~[pursue]~~ alternative management of the campus under this section; ~~[Section 39.1327]~~ or

(3) ~~[may order]~~ closure of the campus.

(e) ~~[If a campus is considered an academically unacceptable campus for the subsequent school year after the campus is reconstituted under this section, the commissioner shall review the progress of the campus and may order closure of the campus or pursue alternative management under Section 39.1327.]~~

~~(f)~~ If a campus is considered to have an unacceptable performance rating ~~[considered academically unacceptable]~~ for three ~~[two]~~ consecutive school years after the campus is reconstituted under Subsection (a), the commissioner shall order:

- ~~(1) repurposing of the campus under this section;~~
- ~~(2) alternative management of the campus under this section; or~~
- ~~(3) closure of the campus [or pursue alternative management under Section 39.1327].~~

~~(e-1) The commissioner may waive the requirement to enter an order under Subsection (e) for not more than one school year if the commissioner determines that, on the basis of significant improvement in student performance over the preceding two school years, the campus is likely to be assigned an acceptable performance rating for the following school year.~~

~~(f) If the commissioner orders repurposing of a campus, the school district shall develop a comprehensive plan for repurposing the campus and submit the plan to the board of trustees for approval, using the procedures described by Section 39.106(e-1), and to the commissioner for approval. The plan must include a description of a rigorous and relevant academic program for the campus. The plan may include various instructional models. The commissioner may not approve the repurposing of a campus unless:~~

~~(1) all students in the assigned attendance zone of the campus in the school year immediately preceding the repurposing of the campus are provided with the opportunity to enroll in and are provided transportation on request to another campus, unless the commissioner grants an exception because there is no other campus in the district in which the students may enroll;~~

~~(2) the principal is not retained at the campus, unless the commissioner determines that students enrolled at the campus have demonstrated significant academic improvement; and~~

~~(3) teachers employed at the campus in the school year immediately preceding the repurposing of the campus are not retained at the campus, unless the commissioner or the commissioner's designee grants an exception, at the request of a school district, for:~~

~~(A) a teacher who provides instruction in a subject other than a subject for which an assessment instrument is administered under Section 39.023(a) or (c) who demonstrates to the commissioner satisfactory performance;~~
~~or~~

~~(B) a teacher who provides instruction in a subject for which an assessment instrument is administered under Section 39.023(a) or (c) if the district demonstrates that the students of the teacher demonstrated satisfactory performance or improved academic growth on that assessment instrument.~~

~~(g) If an educator is not retained under Subsection (f), the educator may be assigned to another position in the district.~~

~~(h) If the commissioner orders alternative management under this section, the [Sec. 39.1327. MANAGEMENT OF CERTAIN ACADEMICALLY UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section if~~

~~the campus has been identified as academically unacceptable under Section 39.132 and the commissioner orders alternative management under Section 39.1324(d), (e), or (f).~~

~~(b) The~~ commissioner shall solicit proposals from qualified nonprofit entities to assume management of a campus subject to this section or may appoint to assume management of a campus subject to this section a school district other than the district in which the campus is located that is located in the boundaries of the same regional education service center as the campus is located. The commissioner may solicit proposals from qualified for-profit entities to assume management of a campus subject to this section if a nonprofit entity has not responded to the commissioner's request for proposals. A district appointed under this section shall assume management of a campus subject to this section in the same manner provided by this section for a qualified ~~nonprofit~~ entity or in accordance with commissioner rule.

~~(i) [(e)]~~ If the commissioner determines that the basis for the unsatisfactory performance of [identifying] a campus for more than two consecutive school years [as academically unacceptable] is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may[-

~~(1) provide the campus a one year waiver under this section; and~~

~~(2)]~~ require the district to contract for the appropriate technical assistance.

~~(j) [(d)]~~ The commissioner may annually solicit proposals under this section for the management of a campus subject to this section. The commissioner shall notify a qualified ~~nonprofit~~ entity that has been approved as a provider under this section. The district must execute a contract with an approved provider and relinquish control of the campus before January 1 of the school year.

~~(k) [(e)]~~ To qualify for consideration as a managing entity under this section, the entity must submit a proposal that provides information relating to the entity's management and leadership team that will participate in management of the campus under consideration, including information relating to individuals that have:

(1) documented success in whole school interventions that increased the educational and performance levels of students in [academically unacceptable] campuses considered to have an unacceptable performance rating;

(2) a proven record of effectiveness with programs assisting low-performing students;

(3) a proven ability to apply research-based school intervention strategies;

(4) a proven record of financial ability to perform under the management contract; and

(5) any other experience or qualifications the commissioner determines necessary.

~~(l) [(f)]~~ In selecting a managing entity under this section, the commissioner shall give preference to a qualified [nonprofit] entity that:

(1) meets any qualifications under this section; and

(2) has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus that is to be operated by a managing entity under this section.

(m) [~~(g)~~] The school district may negotiate the term of a management contract for not more than five years with an option to renew the contract. The management contract must include a provision describing the district's responsibilities in supporting the operation of the campus. The commissioner shall approve the contract before the contract is executed and, as appropriate, may require the district, as a term of the contract, to support the campus in the same manner as the district was required to support the campus before the execution of the management contract.

(n) [~~(h)~~] A management contract under this section shall include provisions approved by the commissioner that require the managing entity to demonstrate improvement in campus performance, including negotiated performance measures. The performance measures must be consistent with the priorities of this chapter. The commissioner shall evaluate a managing entity's performance on the first and second anniversaries of the date of the management contract. If the evaluation fails to demonstrate improvement as negotiated under the contract by the first anniversary of the date of the management contract, the district may terminate the management contract, with the commissioner's consent, for nonperformance or breach of contract and select another provider from an approved list provided by the commissioner. If the evaluation fails to demonstrate significant improvement, as determined by the commissioner, by the second anniversary of the date of the management contract, the district shall terminate the management contract and select another provider from an approved list provided by the commissioner or resume operation of the campus if approved by the commissioner. If the commissioner approves the district's operation of the campus, the commissioner shall assign a technical assistance team to assist the campus.

(o) [~~(i)~~] Notwithstanding any other provision of this code, the funding for a campus operated by a managing entity must be not less than the funding of the other campuses in the district on a per student basis so that the managing entity receives at least the same funding the campus would otherwise have received.

(p) [~~(j)~~] Each campus operated by a managing entity under this section is subject to this chapter in the same manner as any other campus in the district.

(q) [~~(k)~~] The commissioner may adopt rules necessary to implement this section.

(r) [~~(l)~~] With respect to the management of a campus under this section:

(1) a managing entity is considered to be a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) any requirement in Chapter 551 or 552, Government Code, that applies to a school district or the board of trustees of a school district applies to a managing entity.

Sec. 39.108 [~~39.133~~]. ANNUAL REVIEW. The commissioner shall review annually the performance of a district or campus subject to this subchapter to determine the appropriate actions to be implemented under this subchapter. The

commissioner must review at least annually the performance of a district for which the accreditation status or rating has been lowered due to insufficient [~~unacceptable~~] student performance and may not raise the accreditation status or rating until the district has demonstrated improved student performance. If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

Sec. 39.109 [~~39.133~~]. ACQUISITION OF PROFESSIONAL SERVICES. In addition to other interventions and sanctions authorized under this subchapter [~~Sections 39.131 and 39.132~~], the commissioner may order a school district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, performance, or governance deficiency. The commissioner's order may require the district or campus to:

- (1) select or be assigned an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or
- (2) provide for or participate in the appropriate training of district staff or board of trustees members in the case of a district, or campus staff, in the case of a campus.

Sec. 39.110 [~~39.134~~]. COSTS PAID BY DISTRICT. The costs of providing a monitor, conservator, management team, campus intervention team, technical assistance team, managing entity, or service provider under this subchapter [~~Section 39.1327, or service provider under Section 39.1331~~] shall be paid by the district. If the district fails or refuses to pay the costs in a timely manner, the commissioner may:

- (1) pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or
- (2) recover the amount of the costs in the manner provided for recovery of an overallocation of state funds under Section 42.258.

Sec. 39.111 [~~39.135~~]. CONSERVATOR OR MANAGEMENT TEAM. (a) The commissioner shall clearly define the powers and duties of a conservator or management team appointed to oversee the operations of the district.

(b) At least every 90 days, the commissioner shall review the need for the conservator or management team and shall remove the conservator or management team unless the commissioner determines that continued appointment is necessary for effective governance of the district or delivery of instructional services.

(c) A conservator or management team, if directed by the commissioner, shall prepare a plan for the implementation of action under Section 39.102(a)(9) [~~39.131(a)(9)~~] or (10). The conservator or management team:

- (1) may direct an action to be taken by the principal of a campus, the superintendent of the district, or the board of trustees of the district;
- (2) may approve or disapprove any action of the principal of a campus, the superintendent of the district, or the board of trustees of the district;

(3) may not take any action concerning a district election, including ordering or canceling an election or altering the date of or the polling places for an election;

(4) may not change the number of or method of selecting the board of trustees;

(5) may not set a tax rate for the district; and

(6) may not adopt a budget for the district that provides for spending a different amount, exclusive of required debt service, from that previously adopted by the board of trustees.

Sec. 39.112 [~~39.136~~]. BOARD OF MANAGERS. (a) A board of managers may exercise all of the powers and duties assigned to a board of trustees of a school district by law, rule, or regulation. This subchapter applies to a district governed by a board of managers in the same manner that this subchapter applies to any other district.

(b) If the commissioner appoints a board of managers to govern a district, the powers of the board of trustees of the district are suspended for the period of the appointment and the commissioner shall appoint a district superintendent. Notwithstanding any other provision of this code, the board of managers may amend the budget of the district.

(c) If the commissioner appoints a board of managers to govern a campus, the powers of the board of trustees of the district in relation to the campus are suspended for the period of the appointment and the commissioner shall appoint a campus principal. Notwithstanding any other provision of this code, the board of managers may submit to the commissioner for approval amendments to the budget of the district for the benefit of the campus. If the commissioner approves the amendments, the board of trustees of the district shall adopt the amendments.

(d) A conservator or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner.

(e) At the direction of the commissioner but not later than the second anniversary of the date the board of managers of a district was appointed, the board of managers shall order an election of members of the district board of trustees. The election must be held on a uniform election date on which an election of district trustees may be held under Section 41.001, Election Code, that is at least 180 days after the date the election was ordered. On qualification of members for office, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

Sec. 39.113 [~~39.137~~]. [~~SPECIAL~~] CAMPUS INTERVENTION TEAM. A [~~special~~] campus intervention team appointed under this subchapter may consist of teachers, principals, other educational professionals, and superintendents recognized for excellence in their roles and appointed by the commissioner to serve as members of a team.

Sec. 39.114 [~~39.138~~]. IMMUNITY FROM CIVIL LIABILITY. An employee, volunteer, or contractor acting on behalf of the commissioner under this subchapter is immune from civil liability to the same extent as a professional employee of a school district under Section 22.051.

Sec. 39.115. CAMPUS NAME CHANGE PROHIBITED. In reconstituting, repurposing, or imposing any other intervention or sanction on a campus under this subchapter, the commissioner may not require that the name of the campus be changed.

Sec. 39.116. TRANSITIONAL INTERVENTIONS AND SANCTIONS.

(a) During the period of transition to the accreditation system established under HB 3, Acts of the 81st Legislature, Regular Session, 2009, to be implemented in August 2013, the commissioner may suspend assignment of accreditation statuses and performance ratings for the 2011-2012 school year.

(b) As soon as practicable following the 2011-2012 school year, the commissioner shall report district and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B).

(c) For the 2012-2013 school year, the commissioner shall:

(1) report district and campus performance under the student achievement indicator under Section 39.053(c)(1)(B); and

(2) evaluate district and campus performance under the student achievement indicator under Section 39.053(c)(1)(A) and assign district accreditation statuses and district and campus performance ratings based on that evaluation.

(d) Beginning with the 2013-2014 school year, the commissioner shall evaluate district and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B) and assign district accreditation statuses and district and campus performance ratings based on that evaluation.

(e) During the 2011-2012 and 2012-2013 school years, the commissioner shall continue to implement interventions and sanctions for districts and campuses identified as having unacceptable performance in the 2010-2011 school year in accordance with the performance standards applicable during the 2010-2011 school year and may increase or decrease the level of interventions and sanctions based on an evaluation of the district's or campus's performance.

(f) For purposes of determining multiple years of unacceptable performance and required district and campus interventions and sanctions under this subchapter, the performance ratings and accreditation statuses issued in the 2010-2011 and 2012-2013 school years shall be considered consecutive.

(g) This section expires September 1, 2014.

SUBCHAPTER F [K]. PROCEDURES FOR CHALLENGE OF ACCOUNTABILITY DETERMINATION, INTERVENTION, [RATING] OR SANCTION

Sec. 39.151 [39.301]. REVIEW BY COMMISSIONER: ACCOUNTABILITY DETERMINATION [RATINGS]. (a) The commissioner by rule shall provide a process for a school district or open-enrollment charter school to challenge an agency decision made under this chapter relating to an academic or financial accountability rating that affects the district or school.

(b) The rules under Subsection (a) must provide for the commissioner to appoint a committee to make recommendations to the commissioner on a challenge made to an agency decision relating to an academic performance rating or determination or financial accountability rating. The commissioner may not appoint an agency employee as a member of the committee.

(c) The commissioner may limit a challenge under this section to a written submission of any issue identified by the school district or open-enrollment charter school challenging the agency decision.

(d) The commissioner shall make a final decision under this section after considering the recommendation of the committee described by Subsection (b). The commissioner's decision may not be appealed under Section 7.057 or other law.

(e) A school district or open-enrollment charter school may not challenge an agency decision relating to an academic or financial accountability rating under this chapter in another proceeding if the district or school has had an opportunity to challenge the decision under this section.

Sec. 39.152 [~~39.302~~]. REVIEW BY STATE OFFICE OF ADMINISTRATIVE HEARINGS: SANCTIONS. (a) A school district or open-enrollment charter school that intends to challenge a decision by the commissioner under this chapter to close the district or a district campus or the charter school or to pursue alternative management of a district campus or the charter school must appeal the decision under the procedures provided for a contested case under Chapter 2001, Government Code.

(b) A challenge to a decision under this section is under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.

(c) Notwithstanding other law:

(1) the State Office of Administrative Hearings shall provide an expedited review of a challenge under this section;

(2) the administrative law judge shall issue a final order not later than the 30th day after the date on which the hearing is finally closed; and

(3) the decision of the administrative law judge is final and may not be appealed.

SUBCHAPTER G. DISTINCTION DESIGNATIONS

Sec. 39.201. ELIGIBILITY FOR DISTINCTION DESIGNATION. (a) Not later than August 8 of each year, the commissioner shall award distinction designations under this subchapter. A district or campus may not be awarded a distinction designation under this subchapter unless the district or campus has acceptable performance under Section 39.054.

(b) A district or campus is eligible for a distinction designation under this subchapter if:

(1) the district or campus attains a minimum percentage, as determined by the commissioner, of:

(A) students who performed satisfactorily, as determined under the college readiness performance standard under Section 39.0241, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area; or

(B) students who met the standard for annual improvement, as determined by the agency under Section 39.034, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area, for students who did not perform satisfactorily as described by Paragraph (A); or

(2) the district or campus satisfies the criteria adopted by the commissioner under Section 39.202 to demonstrate sufficient student attainment of postsecondary success.

(c) If college readiness performance standards are adopted for science and social studies end-of-course assessment instruments under Section 39.024(f), those performance standards and assessment instruments apply in determining district or campus eligibility under this section.

Sec. 39.202. ACADEMIC EXCELLENCE DISTINCTION DESIGNATION FOR DISTRICTS AND CAMPUSES. (a) The commissioner shall award a district or campus an academic excellence distinction designation if the district or campus attains percentages of students under Sections 39.201(b)(1) and (2) higher than the percentages determined by the commissioner under Sections 39.201(b)(1) and (2).

(b) The commissioner by rule shall establish a recognized and exemplary rating for the academic distinction designation under this section. In establishing the recognized and exemplary ratings, the commissioner shall adopt criteria for the ratings, including the percentages of students under Sections 39.201(b)(1) and (2) and factors other than performance on assessment instruments for determining sufficient student attainment of postsecondary success.

Sec. 39.203. CAMPUS DISTINCTION DESIGNATIONS. (a) The commissioner shall award a campus a distinction designation if the campus is ranked in the top 25 percent of campuses in the state in annual improvement in student achievement as determined under Section 39.034.

(b) In addition to the distinction designation described by Subsection (a), the commissioner shall award a campus a distinction designation if the campus demonstrates an ability to significantly diminish or eliminate performance differentials between student subpopulations and is ranked in the top 25 percent of campuses in this state under the performance criteria described by this subsection. The commissioner shall adopt rules related to the distinction designation under this subsection to ensure that a campus does not artificially diminish or eliminate performance differentials through inhibiting the achievement of the highest achieving student subpopulation.

(c) In addition to the distinction designations described by Subsections (a) and (b), a campus that satisfies the criteria developed under Section 39.204 shall be awarded a distinction designation by the commissioner for the following programs or the following specific categories of performance:

(1) academic achievement in English language arts, mathematics, science, or social studies;

(2) fine arts;

(3) physical education;

(4) 21st Century Workforce Development program; and

(5) second language acquisition program.

Sec. 39.204. CAMPUS DISTINCTION DESIGNATION CRITERIA; COMMITTEES. (a) The commissioner by rule shall establish:

(1) standards for considering campuses for distinction designations under Section 39.203(c); and

(2) methods for awarding distinction designations to campuses.

(b) In adopting rules under this section, the commissioner shall establish a separate committee to develop criteria for each distinction designation under Section 39.203(c).

(c) Each committee established under this section must include:

(1) individuals who practice as professionals in the content area relevant to the distinction designation, as applicable;

(2) individuals with subject matter expertise in the content area relevant to the distinction designation;

(3) educators with subject matter expertise in the content area relevant to the distinction designation; and

(4) community leaders, including leaders from the business community.

(d) For each committee, the governor, lieutenant governor, and speaker of the house of representatives may each appoint a person described by each subdivision of Subsection (c).

(e) In developing criteria for distinction designations under this section, each committee shall:

(1) identify a variety of indicators for measuring excellence; and

(2) consider categories for distinction designations, with criteria relevant to each category, based on:

(A) the level of a program, whether elementary school, middle or junior high school, or high school; and

(B) the student enrollment of a campus.

SUBCHAPTER H [F]. ADDITIONAL REWARDS

~~[Sec. 39.111. RECOGNITION AND REWARDS. The State Board of Education shall develop a plan for recognizing and rewarding school districts and campuses that are rated as exemplary or recognized and for developing a network for sharing proven successful practices statewide and regionally. The reward may be used to provide educators with summer stipends to develop curricula based on the cited successful strategies. The educators may copyright the curricula they develop.]~~

Sec. 39.232 [39.112]. EXCELLENCE EXEMPTIONS. (a) Except as provided by Subsection (b), a school campus or district that is rated exemplary under Subchapter G is exempt from requirements and prohibitions imposed under this code including rules adopted under this code.

(b) A school campus or district is not exempt under this section from:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) requirements imposed by federal law or rule, including requirements for special education or bilingual education programs; or

(3) a requirement, restriction, or prohibition relating to:

(A) curriculum essential knowledge and skills under Section 28.002 or high school [~~minimum~~] graduation requirements under Section 28.025;

(B) public school accountability as provided by Subchapters B, C, D, E, and J [~~G~~];

(C) extracurricular activities under Section 33.081;

(D) health and safety under Chapter 38;

(E) purchasing [~~competitive bidding~~] under Subchapter B, Chapter 44;

(F) elementary school class size limits, except as provided by Subsection (d) or Section 25.112;

(G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;

(H) at risk programs under Subchapter C, Chapter 29;

(I) prekindergarten programs under Subchapter E, Chapter 29;

(J) rights and benefits of school employees;

(K) special education programs under Subchapter A, Chapter 29;

or

(L) bilingual education programs under Subchapter B, Chapter 29.

(c) The agency shall monitor and evaluate deregulation of a school campus or district under this section and Section 7.056.

(d) The commissioner may exempt an exemplary school campus under Subchapter G from elementary class size limits under this section if the school campus submits to the commissioner a written plan showing steps that will be taken to ensure that the exemption from the class size limits will not be harmful to the academic achievement of the students on the school campus. The commissioner shall review achievement levels annually. The exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

Sec. 39.233 [~~39.113~~]. RECOGNITION OF HIGH SCHOOL COMPLETION AND SUCCESS AND COLLEGE READINESS PROGRAMS.

(a) The agency shall:

(1) develop standards for evaluating the success and cost-effectiveness of high school completion and success and college readiness programs implemented under Section 39.234 [~~39.114~~];

(2) provide guidance for school districts and campuses in establishing and improving high school completion and success and college readiness programs implemented under Section 39.234 [~~39.114~~]; and

(3) develop standards for selecting and methods for recognizing school districts and campuses that offer exceptional high school completion and success and college readiness programs under Section 39.234 [~~39.114~~].

(b) The commissioner may adopt rules for the administration of this section.

Sec. 39.234 [~~39.114~~]. HIGH SCHOOL ALLOTMENT. (a) Except as provided by Subsection (b), a school district or campus must use funds allocated under Section 42.2516(b)(3) to:

(1) implement or administer a college readiness program that provides academic support and instruction to prepare underachieving students for entrance into an institution of higher education;

(2) implement or administer a program that encourages students to pursue advanced academic opportunities, including early college high school programs and dual credit, advanced placement, and international baccalaureate courses;

(3) implement or administer a program that provides opportunities for students to take academically rigorous course work, including four years of mathematics and four years of science at the high school level;

(4) implement or administer a program, including online course support and professional development, that aligns the curriculum for grades six through 12 with postsecondary curriculum and expectations; or

(5) implement or administer other high school completion and success initiatives in grades six through 12 approved by the commissioner.

(b) A school district may use funds allocated under Section 42.2516(b)(3) on any instructional program in grades six through 12 other than an athletic program if:

(1) the district's measure of progress toward college readiness is determined exceptional by a standard set [district is recognized as exceptional] by the commissioner [under the academic accountability indicator adopted under Section 39.051(b)(13)]; and

(2) the district's completion rates for grades nine through 12 [meet or] exceed completion rate standards required by the commissioner to achieve a status of accredited under Section 39.051 [rating of exemplary under Section 39.072].

(b-1) Subsection (b) applies beginning with the 2008-2009 school year. This subsection expires September 1, 2009.

(c) An open-enrollment charter school is entitled to an allotment under this section in the same manner as a school district.

(d) The commissioner shall adopt rules to administer this section, including rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.

Sec. 39.235 [~~39.115~~]. HIGH SCHOOL INNOVATION GRANT INITIATIVE. (a) From funds appropriated for that purpose, the commissioner may establish a grant program under which grants are awarded to secondary campuses and school districts to support:

(1) the implementation of innovative high school improvement programs that are based on the best available research regarding high school reform, dropout prevention, and preparing students for postsecondary coursework or employment;

(2) enhancing education practices that have been demonstrated by significant evidence of effectiveness; and

(3) the alignment of grants and programs to the strategic plan adopted under Section 39.407 [~~39.357~~].

(b) Before awarding a grant under this section, the commissioner may require a campus or school district to:

- (1) obtain local matching funds; or
- (2) meet other conditions, including developing a personal graduation plan under Section 28.0212 for each student enrolled at the campus or in a district high school.

(c) The commissioner may:

- (1) accept gifts, grants, or donations from a private foundation to implement a grant program under this section; and
- (2) coordinate gifts, grants, or donations with other available funding to implement a grant program under this section.

(d) The commissioner may use funds appropriated under this section to support technical assistance services for school districts and open-enrollment charter schools to implement a high school improvement program under this section.

Sec. 39.236. GIFTED AND TALENTED STANDARDS. The commissioner shall adopt standards to evaluate school district programs for gifted and talented students to determine whether a district operates a program for gifted and talented students in accordance with:

- (1) the Texas Performance Standards Project; or
- (2) another program approved by the commissioner that meets the requirements of the state plan for the education of gifted and talented students under Section 29.123.

~~[Sec. 39.116. INITIATIVE FOR RETAINING QUALITY EDUCATORS. Notwithstanding Section 39.1324(b), a school district, to assist in preventing dropouts and disruptions that may result from certain mandatory sanctions, may retain at a campus a principal who has been employed at the campus as a principal during the two-year period described by Section 39.1324(a) if the students enrolled at the campus have demonstrated a pattern of significant academic improvement.]~~

SUBCHAPTER I ~~[E]~~. SUCCESSFUL SCHOOL AWARDS

~~Sec. 39.261 [39.094]. CREATION OF SYSTEM.~~ The Texas Successful Schools Awards System is created to recognize and reward those schools and school districts that demonstrate progress or success in achieving the education goals of the state.

~~Sec. 39.262 [39.092]. TYPES OF AWARDS.~~ (a) The governor may present a financial award to the schools or districts that the commissioner determines have demonstrated the highest levels of sustained success or the greatest improvement in achieving the education goals. For each student in average daily attendance, each of those schools or districts is entitled to an amount set for the award for which the school or district is selected by the commissioner, subject to any limitation set by the commissioner on the total amount that may be awarded to a school or district.

(b) The governor may present proclamations or certificates to additional schools and districts determined to have met or exceeded the education goals.

(c) The commissioner may establish additional categories of awards and award amounts for a school or district determined to be successful under Subsection (a) or (b) that are contingent on the school's or district's involvement with paired, lower-performing schools.

Sec. 39.263 [~~39.093~~]. AWARDS. (a) The criteria that the commissioner shall use to select successful schools and districts must be related to the goals in Section 4.002 and must include consideration of performance on the student achievement [~~academic excellence~~] indicators adopted under Section 39.053(c) and consideration of the distinction designation criteria prescribed by or developed under Subchapter G [~~39.054~~].

(b) For purposes of selecting schools and districts under Section 39.262(a) [~~39.092(a)~~], each school's performance shall be compared to state standards and to its previous performance.

(c) [~~(b)~~] The commissioner shall select annually schools and districts qualified to receive successful school awards for their performance and report the selections to the governor and the State Board of Education.

(d) [~~(c)~~] The agency shall notify each school district of the manner in which the district or a school in the district may qualify for a successful school award.

Sec. 39.264 [~~39.094~~]. USE OF AWARDS. (a) In determining the use of a monetary award received under this subchapter, a school or district shall give priority to academic enhancement purposes. The award may not be used for any purpose related to athletics, and it may not be used to substitute for or replace funds already in the regular budget for a school or district.

(b) The campus-level committee established under Section 11.253 shall determine the use of the funds awarded to a school under this subchapter. The professional staff of the district shall determine the use of the funds awarded to the school district under this subchapter.

Sec. 39.265 [~~39.095~~]. FUNDING. The award system may be funded by donations, grants, or legislative appropriations. The commissioner may solicit and receive grants and donations for the purpose of making awards under this subchapter. A small portion of the award funds may be used by the commissioner to pay for the costs associated with sponsoring a ceremony to recognize or present awards to schools or districts under this subchapter. The donations, grants, or legislative appropriations shall be accounted for and distributed by the agency. The awards are subject to audit requirements established by the State Board of Education.

Sec. 39.266 [~~39.096~~]. CONFIDENTIALITY. All information and reports received by the commissioner under this subchapter from schools or school districts deemed confidential under Chapter 552, Government Code, are confidential and may not be disclosed in any public or private proceeding.

SUBCHAPTER J. PARENT AND EDUCATOR REPORTS

Sec. 39.301. ADDITIONAL PERFORMANCE INDICATORS: REPORTING. (a) In addition to the indicators adopted under Section 39.053, the commissioner shall adopt indicators of the quality of learning for the purpose of preparing reports under this chapter. The commissioner biennially shall review the indicators for the consideration of appropriate revisions.

(b) Performance on the indicators adopted under this section shall be evaluated in the same manner provided for evaluation of the student achievement indicators under Section 39.053(c).

(c) Indicators for reporting purposes must include:

(1) the percentage of graduating students who meet the course requirements established by State Board of Education rule for the minimum high school program, the recommended high school program, and the advanced high school program;

(2) the results of the SAT, ACT, articulated postsecondary degree programs described by Section 61.852, and certified workforce training programs described by Chapter 311, Labor Code;

(3) for students who have failed to perform satisfactorily, under each performance standard under Section 39.0241, on an assessment instrument required under Section 39.023(a) or (c), the performance of those students on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

(4) for each campus, the number of students, disaggregated by major student subpopulations, that agree under Section 28.025(b) to take courses under the minimum high school program;

(5) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessment instruments administered under that section, the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;

(6) the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(1) and (2);

(7) the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) the percentage of students who satisfy the college readiness measure;

(9) the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052;

(10) the percentage of students who are not educationally disadvantaged;

(11) the percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

(12) the percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

(d) Performance on the indicators described by Section 39.053(c) and Subsections (c)(3), (4), and (9) must be based on longitudinal student data that is disaggregated by the bilingual education or special language program, if any, in which students of limited English proficiency, as defined by Section 29.052, are or former students of limited English proficiency were enrolled. If a student described by this subsection is not or was not enrolled in specialized language instruction, the number and percentage of those students shall be provided.

(e) Section 39.055 applies in evaluating indicators described by Subsection (c).

Sec. 39.302. REPORT TO DISTRICT: COMPARISONS FOR ANNUAL PERFORMANCE ASSESSMENT. (a) The agency shall report to each school district the comparisons of student performance made under Section 39.034.

(b) To the extent practicable, the agency shall combine the report of comparisons with the report of the student's performance on assessment instruments under Section 39.023.

Sec. 39.303. REPORT TO PARENTS. (a) The school district a student attends shall provide a record of the comparisons made under Section 39.034 and provided to the district under Section 39.302 in a written notice to the student's parent or other person standing in parental relationship.

(b) For a student who failed to perform satisfactorily as determined under either performance standard under Section 39.0241 on an assessment instrument administered under Section 39.023(a), (c), or (l), the school district shall include in the notice specific information relating to access to online educational resources at the appropriate assessment instrument content level, including educational resources described by Section 32.252(b)(2) and assessment instruments questions and answers released under Section 39.023(e).

Sec. 39.304. TEACHER REPORT CARD. (a) Each school district shall prepare a report of the comparisons made under Section 39.034 and provided to the district under Section 39.302 and provide the report at the beginning of the school year to:

(1) each teacher for all students, including incoming students, who were assessed on an assessment instrument under Section 39.023; and

(2) all students under Subdivision (1) who were provided instruction by that teacher in the subject for which the assessment instrument was administered under Section 39.023.

(b) The report shall indicate whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement under Section 39.034.

Sec. 39.305 [39.052]. CAMPUS REPORT CARD. (a) Each school year, the agency shall prepare and distribute to each school district a report card for each campus. The campus report cards must be based on the most current data available disaggregated by student groups. Campus performance must be compared to previous campus and district performance, current district performance, and state established standards[~~and comparable campus group performance~~].

(b) The report card shall include the following information:

(1) where applicable, the student achievement indicators described by Section 39.053(c) and the reporting indicators described by Sections 39.301(c)(1) through (5) [~~academic excellence indicators adopted under Sections 39.051(b)(1) through (10)~~];

(2) average class size by grade level and subject;

(3) the administrative and instructional costs per student, computed in a manner consistent with Section 44.0071; and

(4) the district's instructional expenditures ratio and instructional employees ratio computed under Section 44.0071, and the statewide average of those ratios, as determined by the commissioner.

(c) The commissioner shall adopt rules requiring dissemination of the information required under Subsection (b)(4) and appropriate class size and student performance portions of campus report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

Sec. 39.306 [~~39.053~~]. PERFORMANCE REPORT. (a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;

(2) information indicating the district's accreditation status and identifying each district campus awarded a distinction designation under Subchapter G or considered an unacceptable campus under Subchapter E [~~the performance rating for the district as provided under Section 39.072(a) and the performance rating of each campus in the district as provided under Section 39.072(e)~~];

(3) the district's current special education compliance status with the agency;

(4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students; [~~and~~]

(6) the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.) [~~and its subsequent amendments~~]; and

(7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner.

(b) Supplemental information to be included in the reports shall be determined by the board of trustees. Performance information in the annual reports on the indicators described by Sections 39.053 and 39.301 [~~established under Section 39.051~~] and descriptive information required by this section shall be provided by the agency.

(c) The board of trustees shall hold a hearing for public discussion of the report. The board of trustees shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to [~~guardians, conservators, and other persons having lawful control of~~] a district student. The notification must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district. After the hearing the report shall be widely disseminated within the district in a manner to be determined under rules adopted by the commissioner.

(d) The report must also include a comparison provided by the agency of:

(1) the performance of each campus to its previous performance and to state-established standards; and

(2) the performance of each district to its previous performance and to state-established standards [~~; and~~

~~(3) the performance of each campus or district to comparable improvement].~~

(e) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

(2) financial information, including revenues and expenditures;

(3) staff information, including number and type of staff by sex [~~gender~~], ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;

(4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

(5) the number of students placed in a disciplinary alternative education program under Chapter 37.

(f) The commissioner [~~State Board of Education~~] by rule shall authorize the combination of this report with other reports and financial statements and shall restrict the number and length of reports that school districts, school district employees, and school campuses are required to prepare.

(g) The report must include a statement of the amount, if any, of the school district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.

Sec. 39.307 [~~39.054~~]. USES OF PERFORMANCE REPORT. The information required to be reported under Section 39.306 [~~39.053~~] shall be:

(1) the subject of public hearings or meetings required under Sections 11.252, 11.253, and 39.306 [~~39.053~~];

(2) a primary consideration in school district and campus planning; and

(3) a primary consideration of:

(A) the State Board of Education in the evaluation of the performance of the commissioner;

(B) the commissioner in the evaluation of the performance of the directors of the regional education service centers;

(C) the board of trustees of a school district in the evaluation of the performance of the superintendent of the district; and

(D) the superintendent in the evaluation of the performance of the district's campus principals.

Sec. 39.308 ~~[39.055]~~. ANNUAL AUDIT OF DROPOUT RECORDS; REPORT. (a) The commissioner shall develop a process for auditing school district dropout records electronically. The commissioner shall also develop a system and standards for review of the audit or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate dropout records and that, as a result, require on-site monitoring of dropout records.

(b) If the electronic audit of a school district's dropout records indicates that a district is not at high risk of having inaccurate dropout records, the district may not be subject to on-site monitoring under this subsection.

(c) If the risk-based system indicates that a school district is at high risk of having inaccurate dropout records, the district is entitled to an opportunity to respond to the commissioner's determination before on-site monitoring may be conducted. The district must respond not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If the district's response does not change the commissioner's determination that the district is at high risk of having inaccurate dropout records or if the district does not respond in a timely manner, the commissioner shall order agency staff to conduct on-site monitoring of the district's dropout records.

(d) ~~(e)~~ The commissioner shall notify the board of trustees of a school district of any objection the commissioner has to the district's dropout data, any violation of sound accounting practices or of a law or rule revealed by the data, or any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general.

(e) The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of district dropout data.

SUBCHAPTER K ~~[H]~~. REPORTS BY TEXAS EDUCATION AGENCY

Sec. 39.331 ~~[39.181]~~. GENERAL REQUIREMENTS. (a) Each report required by this subchapter must:

(1) unless otherwise specified, contain summary information and analysis only, with an indication that the agency will provide the data underlying the report on request;

(2) specify a person at the agency who may be contacted for additional information regarding the report and provide the person's telephone number; and

(3) identify other sources of related information, indicating the level of detail and format of information that may be obtained, including the availability of any information on the Texas Education Network.

(b) Each component of a report required by this subchapter must:

(1) identify the substantive goal underlying the information required to be reported;

(2) analyze the progress made and longitudinal trends in achieving the underlying substantive goal;

(3) offer recommendations for improved progress in achieving the underlying substantive goal; and

(4) identify the relationship of the information required to be reported to state education goals.

(c) Unless otherwise provided, each report required by this subchapter is due not later than December 1 of each even-numbered year.

(d) Subsections (a) and (b) apply to any report required by statute that the agency or the State Board of Education must prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, or legislature.

(e) Unless otherwise provided by law, any report required by statute that the agency or the State Board of Education must prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, or legislature may be combined, at the discretion of the commissioner, with a report required by this subchapter.

Sec. 39.332 [~~39.182~~]. COMPREHENSIVE ANNUAL REPORT. (a) Not later than December 1 of each year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the preceding school year and containing the information described by Subsection (b).

(b) [?] (1) The report must contain an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002.[?]

(2) The report must contain an evaluation of the status of education in the state as reflected by:

(A) the student achievement [~~academic excellence~~] indicators described by [~~adopted under~~] Section 39.053 [~~39.051~~]; and

(B) the reporting indicators described by Section 39.301.

(3) The report must contain a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.[?]

(4) The report must contain a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.^[§]

(5) The report must contain a summary compilation of overall performance of students at risk of dropping out of school, as defined by Section 29.081(d), on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.^[§]

(6) The report must contain an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023.^[§]

(7) The report must contain a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12.^[§]

(8) The report must contain a statement of:

(A) the completion rate of students who enter grade level 9 and graduate not more than four years later;

(B) the completion rate of students who enter grade level 9 and graduate, including students who require more than four years to graduate;

(C) the completion rate of students who enter grade level 9 and not more than four years later receive a high school equivalency certificate;

(D) the completion rate of students who enter grade level 9 and receive a high school equivalency certificate, including students who require more than four years to receive a certificate; and

(E) the number and percentage of all students who have not been accounted for under Paragraph (A), (B), (C), or (D).^[§]

(9) The report must contain a statement of the projected cross-sectional and longitudinal dropout rates for grade levels 9 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate.^[§]

(10) The report must contain a description of a systematic, measurable plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less. ~~[for the 1997-1998 school year;]~~

(11) The report must contain a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:

(A) the number and percentage of students retained; and

(B) the performance of retained students on assessment instruments required under Section 39.023(a).^[§]

(12) The report must contain information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:

(A) the number of students placed in a disciplinary alternative education program established under Section 37.008;

(B) the average length of a student's placement in a disciplinary alternative education program established under Section 37.008;

(C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary alternative education program; and

(D) the dropout rates of students who have been placed in a disciplinary alternative education program established under Section 37.008. [§]

(13) The report must contain a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions. [§]

(14) The report must contain an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002. [§]

(15) The report must contain a description of all funds received by and each activity and expenditure of the agency. [§]

(16) The report must contain a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071. [§]

(17) The report must contain a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.232. [39.112;]

(18) The report must contain a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements. [§]

(19) The report must contain a list of each school district that is not in compliance with state special education requirements, including:

(A) the period for which the district has not been in compliance;

(B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and

(C) an explanation of the actions taken by the commissioner to ensure compliance and an evaluation of the results of those actions. [§]

(20) The report must contain a comparison of the performance of open-enrollment charter schools and school districts on the student achievement ~~[academic excellence]~~ indicators described by Section 39.053(c), the reporting indicators described by Section 39.301(c), ~~[specified in Section 39.051(b)]~~ and the accountability measures adopted under Section 39.053(i) ~~[39.051(e)]~~, with a separately aggregated comparison of the performance of open-enrollment charter

schools predominantly serving students at risk of dropping out of school, as described ~~[defined]~~ by Section 29.081(d), with the performance of school districts.^[5]

(21) The report must contain a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district.^[5]

(22) The report must contain a summary compilation of overall student performance under the assessment system developed to evaluate the longitudinal academic progress as required by Section 39.027(e), disaggregated by bilingual education or special language program instructional model, if any.^[5]~~and~~

(23) The report must contain any additional information considered important by the commissioner or the State Board of Education.

(c) ~~(b)~~ In reporting the information required by Subsection ~~(b)(3) or (4)~~ ~~[(a)(3) or (4)]~~, the agency may separately aggregate the performance data of students enrolled in a special education program under Subchapter A, Chapter 29.

(d) ~~(b-1)~~ In reporting the information required by Subsections ~~(b)(3), (5), and (7)~~ ~~[(a)(3), (5), and (7)]~~, the agency shall separately aggregate the longitudinal performance data of all students identified as students of limited English proficiency, as defined by Section 29.052, or former students of limited English proficiency, disaggregated by bilingual education or special language program instructional model, if any, in which the students are or were enrolled.

(e) ~~(e)~~ Each report must contain the most recent data available.

Sec. 39.333 ~~[39.183]~~. REGIONAL AND DISTRICT LEVEL REPORT. The agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a regional and district level report covering the preceding two school years and containing:

(1) a summary of school district compliance with the student/teacher ratios and class-size limitations prescribed by Sections 25.111 and 25.112, including:

(A) the number of campuses and classes at each campus granted an exception from Section 25.112; and

(B) for ~~the performance rating under Subchapter D of~~ each campus granted an exception from Section 25.112, a statement of whether the campus has been awarded a distinction designation under Subchapter G or has been identified as an unacceptable campus under Subchapter E;

(2) a summary of the exemptions and waivers granted to campuses and school districts under Section 7.056 or 39.232 ~~[39.112]~~ and a review of the effectiveness of each campus or district following deregulation;

(3) an evaluation of the performance of the system of regional education service centers based on the indicators adopted under Section 8.101 and client satisfaction with services provided under Subchapter B, Chapter 8;

(4) an evaluation of accelerated instruction programs offered under Section 28.006, including an assessment of the quality of such programs and the performance of students enrolled in such programs; and

(5) the number of classes at each campus that are currently being taught by individuals who are not certified in the content areas of their respective classes.

Sec. 39.334 [~~39.184~~]. TECHNOLOGY REPORT. The agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a technology report covering the preceding two school years and containing information on the status of the implementation of and revisions to the long-range technology plan required by Section 32.001, including the equity of the distribution and use of technology in public schools.

Sec. 39.335 [~~39.185~~]. INTERIM REPORT. Not later than December 1 of each odd-numbered year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system an interim report containing, for the previous school year, the information required by Section 39.333(2) [~~39.183(2)~~].

SUBCHAPTER L [~~J~~]. NOTICE OF PERFORMANCE

Sec. 39.361 [~~39.251~~]. NOTICE IN STUDENT GRADE REPORT. The first written notice of a student's performance that a school district gives during a school year as required by Section 28.022(a)(2) must include [~~the following information~~]:

(1) a statement of whether the campus at which the student is enrolled has been awarded a distinction designation under Subchapter G or has been identified as an unacceptable campus under Subchapter E [~~the most recent performance rating of the campus at which the student is enrolled, as determined under Section 39.072~~]; and

(2) an explanation of the significance of the information provided under Subdivision (1) [~~a definition and explanation of each performance rating described by Section 39.072(a)~~].

Sec. 39.362 [~~39.252~~]. NOTICE ON DISTRICT WEBSITE. Not later than the 10th day after the first day of instruction of each school year, a school district that maintains an Internet website shall make the following information available to the public on the website:

(1) the information contained in the most recent campus report card for each campus in the district [~~as determined~~] under Section 39.305 [~~39.052~~];

(2) the information contained in the most recent performance report for the district [~~as determined~~] under Section 39.306 [~~39.053~~];

(3) the most recent accreditation status [~~performance rating~~] of the district [~~as determined~~] under Section 39.052 [~~39.072~~]; and

(4) a definition and explanation of each accreditation status under ~~[performance rating described by]~~ Section 39.051, based on commissioner rule adopted under that section ~~[39.072(a)]~~.

SUBCHAPTER M [L]. HIGH SCHOOL COMPLETION AND SUCCESS INITIATIVE

Sec. 39.401 ~~[39.351]~~. DEFINITION. In this subchapter, "council" means the High School Completion and Success Initiative Council.

Sec. 39.402 ~~[39.352]~~. HIGH SCHOOL COMPLETION AND SUCCESS INITIATIVE COUNCIL. (a) The High School Completion and Success Initiative Council is established to identify strategic priorities for and make recommendations to improve the effectiveness, coordination, and alignment of high school completion and college and workforce readiness efforts.

(b) The council is composed of:

- (1) the commissioner of education;
- (2) the commissioner of higher education; and
- (3) seven members appointed by the commissioner of education.

(c) In making appointments required by Subsection (b)(3), the commissioner of education shall appoint:

- (1) three members from a list of nominations provided by the governor;
- (2) two members from a list of nominations provided by the lieutenant governor; and
- (3) two members from a list of nominations provided by the speaker of the house of representatives.

(d) In making nominations under Subsection (c), the governor, lieutenant governor, and speaker of the house of representatives shall nominate persons who have distinguished experience in:

- (1) developing and implementing high school reform strategies; and
- (2) promoting college and workforce readiness.

Sec. 39.403 ~~[39.353]~~. TERMS. Members of the council appointed under Section 39.402(b)(3) ~~[39.352(b)(3)]~~ serve terms of two years and may be reappointed for additional terms.

Sec. 39.404 ~~[39.354]~~. PRESIDING OFFICER. The commissioner of education serves as the presiding officer of the council.

Sec. 39.405 ~~[39.355]~~. COMPENSATION AND REIMBURSEMENT. A member of the council is not entitled to compensation for service on the council but is entitled to reimbursement for actual and necessary expenses incurred in performing council duties.

Sec. 39.406 ~~[39.356]~~. COUNCIL STAFF AND FUNDING. (a) Except as otherwise provided, staff members of the agency, with the assistance of the Texas Higher Education Coordinating Board, shall provide administrative support for the council.

(b) Funding for the administrative and operational expenses of the council shall be provided by appropriation to the agency for that purpose and by gifts, grants, and donations solicited and accepted by the agency for that purpose.

Sec. 39.407 ~~[39.357]~~. STRATEGIC PLAN. (a) The council shall adopt a strategic plan under this subchapter to:

(1) specify strategies to identify, support, and expand programs to improve high school completion rates and college and workforce readiness;

(2) establish specific goals with which to measure the success of the strategies identified under Subdivision (1) in improving high school completion rates and college and workforce readiness;

(3) identify strategies for alignment and coordination of federal and other funding sources that may be pursued for high school reform, dropout prevention, and preparation of students for postsecondary coursework or employment; and

(4) identify key objectives for appropriate research and program evaluation conducted as provided by this subchapter.

(b) The commissioner of education and the commissioner of higher education shall adopt rules as necessary to administer the strategic plan adopted by the council under this section.

(c) The commissioner of education or the commissioner of higher education may not, in a manner inconsistent with the strategic plan, spend money, award a grant, or enter into a contract in connection with a program relating to high school success and completion.

Sec. 39.408 [~~39.358~~]. ELIGIBILITY CRITERIA FOR CERTAIN GRANT PROGRAMS. A school district or campus is eligible to participate in programs under Sections 21.4541, 29.095, 29.096, 29.097, and 29.098 if the district or campus exhibited during each of the three preceding school years characteristics that strongly correlate with high dropout rates.

Sec. 39.409 [~~39.359~~]. PRIVATE FOUNDATION PARTNERSHIPS. (a) The commissioner of education or the commissioner of higher education, as appropriate, and the council may coordinate with private foundations that have made a substantial investment in the improvement of high schools in this state to maximize the impact of public and private investments.

(b) A private foundation is not required to obtain the approval of the appropriate commissioner or the council under Subsection (a) before allocating resources to a school in this state.

Sec. 39.410 [~~39.360~~]. GRANT PROGRAM EVALUATION. (a) The commissioner of education shall annually set aside not more than five percent of the funds appropriated for high school completion and success to contract for the evaluation of programs supported by grants approved under this subchapter. In awarding a contract under this subsection, the commissioner shall consider centers for education research established under Section 1.005.

(b) A person who receives a grant approved under this subchapter must consent to an evaluation under this section as a condition of receiving the grant.

(c) The commissioner shall ensure that an evaluation conducted under this section includes an assessment of whether student achievement has improved. Results of the evaluation shall be provided through the online clearinghouse of information relating to the best practices of campuses and school districts established under Section 7.009.

Sec. 39.411 [~~39.361~~]. COUNCIL RECOMMENDATIONS. (a) Based on the strategic plan adopted under this subchapter [~~section~~], the council shall make recommendations to the commissioner of education or the commissioner of higher education, as applicable, for the use of federal and state funds appropriated or received for high school reform, college readiness, and dropout prevention, including grants awarded under Sections 21.4511, 21.4541, 29.095-29.098, 29.917, 29.919, and 39.235 [~~39.115~~].

(b) The council shall include recommendations under this section for:

- (1) key elements of program design;
- (2) criteria for awarding grants and evaluating programs;
- (3) program funding priorities; and
- (4) program evaluation as provided by this subchapter.

(c) The commissioner of education or the commissioner of higher education, as applicable, shall consider the council's recommendations and based on those recommendations may award grants to school districts, open-enrollment charter schools, institutions of higher education, regional education service centers, and nonprofit organizations to meet the goals of the council's strategic plan.

(d) The commissioner of education or the commissioner of higher education, as applicable:

- (1) is not required under this section to allocate funds to a program or initiative recommended by the council; and
- (2) may not initiate a program funded under this section that does not conform to the recommended use of funds as provided under Subsections (a) and (b).

Sec. 39.412 [~~39.362~~]. FUNDING PROVIDED TO SCHOOL DISTRICTS. From funds appropriated, the commissioner of education may provide funding to school districts to permit a school district to obtain technical assistance in preparing a grant proposal for a grant program administered under this subchapter.

Sec. 39.413 [~~39.363~~]. FUNDING FOR CERTAIN PROGRAMS. (a) From funds appropriated, the Texas Higher Education Coordinating Board shall allocate \$8.75 million each year to establish mathematics, science, and technology teacher preparation academies under Section 21.462 and implement and administer the program under Section 29.098.

(b) The Texas Higher Education Coordinating Board shall establish mathematics, science, and technology teacher preparation academies under Section 21.462 and implement and administer the program under Section 29.098 in a manner consistent with the goals of this subchapter and the goals in "Closing the Gaps," the state's master plan for higher education.

Sec. 39.414 [~~39.364~~]. PRIVATE FUNDING. The commissioner of education or the commissioner of higher education, as appropriate, may accept gifts, grants, or donations to fund a grant administered under this subchapter.

Sec. 39.415 [~~39.365~~]. REPORTS. (a) Not later than December 1 of each even-numbered year, the agency shall prepare and deliver a report to the legislature that recommends any statutory changes the council considers appropriate to promote high school completion and college and workforce readiness.

(b) Not later than March 1 and September 1 of each year, the commissioner of education shall prepare and deliver a progress report to the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education, the Legislative Budget Board, and the Governor's Office of Policy and Planning on:

(1) the implementation of Sections 7.031, 21.4511, 21.4541, 21.462, 28.008(d-1), 28.0212(d), 29.095-29.098, 29.911, 29.917-29.919, and 39.235 [~~39.115~~] and this subchapter;

(2) the programs supported by grants approved under this subchapter; and

(3) the alignment of grants and programs to the strategic plan adopted under Section 39.407 [~~39.357~~].

Sec. 39.416 [~~39.366~~]. RULES. The commissioner of education and the commissioner of higher education shall adopt rules as necessary to administer this subchapter and any programs under the authority of the commissioner of education or the commissioner of higher education and the council under this subchapter.

SECTION 60. Section 42.002(b), Education Code, is amended to read as follows:

(b) The Foundation School Program consists of:

(1) two tiers that in combination provide for:

(A) sufficient financing for all school districts to provide a basic program of education that is rated [~~academically~~] acceptable or higher under Section 39.054 [~~39.072~~] and meets other applicable legal standards; and

(B) substantially equal access to funds to provide an enriched program; and

(2) a facilities component as provided by Chapter 46.

SECTION 61. Section 51.3062, Education Code, is amended by adding Subsections (i-1) and (q-1) to read as follows:

(i-1) The commissioner of higher education may by rule require an institution of higher education to adopt uniform standards for the placement of a student under this section.

(q-1) A student who has completed a recommended or advanced high school program as determined under Section 28.025 and demonstrated the performance standard for college readiness as provided by Section 39.024 on the Algebra II and English III end-of-course assessment instruments is exempt from the requirements of this section with respect to those content areas. The commissioner of higher education by rule shall establish the period for which an exemption under this subsection is valid.

SECTION 62. Section 51.807, Education Code, as amended by Chapters 941 (**HB 3826**) and 1369 (**HB 3851**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted to read as follows:

Sec. 51.807. RULEMAKING. (a) The Texas Higher Education Coordinating Board may adopt rules relating to the operation of admissions programs under this subchapter, including rules relating to the identification of eligible students.

(b) The Texas Higher Education Coordinating Board, after consulting with the Texas Education Agency, by rule shall establish standards for determining for purposes of this subchapter:

(1) whether a private high school is accredited by a generally recognized accrediting organization; and

(2) whether a person completed a high school curriculum that is equivalent in content and rigor to the curriculum requirements established under Section 28.025 for the recommended or advanced high school program.

SECTION 63. Chapter 61, Education Code, is amended by adding Subchapter T-1 to read as follows:

SUBCHAPTER T-1. CAREER AND TECHNICAL EDUCATION

Sec. 61.861. DEVELOPMENT OF MATHEMATICS AND SCIENCE COURSES FOR HIGH-DEMAND OCCUPATIONS. (a) The commissioner of higher education and the commissioner of education, in consultation with the comptroller and the Texas Workforce Commission, may award a grant in an amount not to exceed \$1 million to an institution of higher education to develop advanced mathematics and science courses to prepare high school students for employment in a high-demand occupation. The commissioner of higher education, the commissioner of education, the comptroller, and the Texas Workforce Commission shall jointly determine what is considered a high-demand occupation for purposes of this subchapter.

(b) An institution of higher education shall work in partnership with at least one independent school district and a business entity in developing a course for purposes of this section.

(c) A course developed for purposes of this section must:

(1) provide content that enables a student to develop the relevant and critical skills needed to be prepared for employment or additional training in a high-demand occupation;

(2) incorporate college and career readiness skills as part of the curriculum;

(3) be offered for dual credit; and

(4) satisfy a mathematics or science requirement under the recommended or advanced high school program as determined under Section 28.025.

(d) An institution of higher education shall periodically review and revise the curriculum for a course developed for purposes of this section to accommodate changes in industry standards for the high-demand occupation.

Sec. 61.862. GRANT APPLICATION CRITERIA. The commissioner of higher education and the commissioner of education, in consultation with the comptroller and the Texas Workforce Commission, shall establish application criteria for a grant under this subchapter and in making an award shall give priority to courses that:

(1) will prepare students for high-demand, high-wage, and high-skill occupations and further postsecondary study;

(2) may be transferred as college credit to multiple institutions of higher education; and

(3) are developed as part of a sequence of courses that includes statewide availability of the instructional materials and training for the courses at a nominal cost to public educational institutions in this state.

Sec. 61.863. USE OF FUNDS. An institution of higher education may use funds awarded under this section to develop, in connection with a course described by Section 61.861:

(1) curriculum;

(2) assessments;

(3) instructional materials, including technology-based supplemental materials; or

(4) professional development programs for secondary grade-level teachers teaching a course described by Section 61.861.

Sec. 61.864. REVIEW OF COURSES. Courses developed for which a grant is awarded under this subchapter shall be reviewed by the commissioner of higher education and the commissioner of education, in consultation with the comptroller and the Texas Workforce Commission, once every four years to determine whether the course:

(1) is being used by public educational institutions in this state;

(2) prepares high school students with the skills necessary for employment in the high-demand occupation and further postsecondary study; and

(3) satisfies a mathematics or science requirement for the recommended or advanced high school program as determined under Section 28.025.

Sec. 61.865. MATCHING CONTRIBUTION REQUIRED. An institution of higher education awarded a grant under this subchapter must obtain from one or more business entities in the industry for which students taking courses developed under Section 61.861 are training, in a total amount equal to the amount of the state grant:

(1) gifts, grants, or donations of funds; or

(2) contributions of property that may be used in providing the courses.

Sec. 61.866. LIMITATION ON TOTAL AMOUNT OF GRANTS. In any state fiscal biennium, the total amount of grants awarded under this subchapter may not exceed \$10 million.

Sec. 61.867. FUNDING OF GRANTS. The commissioner of higher education shall administer this section using available appropriations and gifts, grants, and donations made for the purposes of this subchapter.

SECTION 64. Subtitle G, Title 3, Education Code, is amended by adding Chapter 134 to read as follows:

CHAPTER 134. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM

Sec. 134.001. DEFINITIONS. In this chapter:

(1) "Nonprofit organization" means an organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(2) "Public junior college" and "public technical institute" have the meanings assigned by Section 61.003.

Sec. 134.002. JOBS AND EDUCATION FOR TEXANS (JET) FUND. (a) The comptroller shall establish and administer the Jobs and Education for Texans (JET) fund as a dedicated account in the general revenue fund.

(b) The following amounts shall be deposited in the fund:

(1) any amounts appropriated by the legislature for the fund for purposes of this chapter;

(2) interest earned on the investment of money in the fund; and

(3) gifts, grants, and other donations received for the fund.

Sec. 134.003. ADVISORY BOARD. (a) An advisory board of education and workforce stakeholders is created to assist the comptroller in administering this chapter.

(b) The advisory board is composed of seven members who serve two-year terms and are appointed as follows:

(1) one member appointed by the governor;

(2) one member appointed by the lieutenant governor;

(3) one member appointed by the speaker of the house of representatives;

(4) one member appointed by the Texas Higher Education Coordinating Board;

(5) one member appointed by the Texas Workforce Commission;

(6) one member of the public appointed by the comptroller; and

(7) the comptroller, who serves as the presiding officer.

(c) The advisory board shall meet at least once each quarter to review received applications and recommend awarding grants under this chapter.

Sec. 134.004. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM. The comptroller shall establish and administer the Jobs and Education for Texans (JET) Grant Program to provide grants to public junior colleges, public technical institutes, and eligible nonprofit organizations that apply to the advisory board in the manner prescribed by the advisory board. The comptroller shall award the grants on the advice and recommendations of the advisory board. Grants may be awarded under this chapter from the Jobs and Education for Texans (JET) fund for the following purposes:

(1) to develop, support, or expand programs of nonprofit organizations that meet the requirements of Section 134.005 and that prepare low-income students for careers in high-demand occupations;

(2) to defray the start-up costs associated with the development of new career and technical education programs at public junior colleges and public technical institutes that meet the requirements of Section 134.006; and

(3) to provide scholarships for students in career and technical education programs who meet the requirements of Section 134.007.

Sec. 134.005. GRANTS TO NONPROFIT ORGANIZATIONS FOR INNOVATIVE AND SUCCESSFUL PROGRAMS. (a) The comptroller may award a grant to a nonprofit organization eligible under Subsection (b) for the development, support, or expansion of programs to prepare low-income students for careers in high-demand occupations.

(b) To be eligible to receive a grant under this section, a nonprofit organization must:

(1) provide a program to offer assistance to low-income students in preparing for, applying to, and enrolling in a public junior college or public technical institute;

(2) be governed by a board or other governing structure that includes recognized leaders of broad-based community organizations and members of the local business community;

(3) demonstrate to the satisfaction of the advisory board that the organization's program has achieved or will achieve the following measures of success among program participants, to the extent applicable to the type of program the organization provides:

(A) above average completion of developmental education among participating public junior college or public technical institute students;

(B) above average persistence rates among participating public junior college or public technical institute students;

(C) above average certificate or degree completion rates by participating students within a three-year period compared to demographically comparable public junior college and public technical institute students; and

(D) employment of participating students at an average full-time starting wage that is equal to or greater than the prevailing wage for the occupation entered; and

(4) provide matching funds in accordance with rules adopted under Section 134.008.

(c) The matching funds required under Subsection (b)(4) may be obtained from any source available to the nonprofit organization, including in-kind contributions, community or foundation grants, individual contributions, and local governmental agency operating funds.

(d) Grants awarded under this section must be awarded in a manner that takes a balanced geographical distribution into consideration.

Sec. 134.006. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS. (a) The comptroller may award a grant for the development of new career and technical education courses or programs at public junior colleges and public technical institutes.

(b) A grant received under this section may be used only:

(1) to support courses or programs that prepare students for career employment in occupations that are identified by local businesses as being in high demand, including courses offered for dual credit;

(2) to finance initial costs of career and technical education course or program development, including the costs of constructing or renovating facilities, purchasing equipment, and other expenses associated with the development of a new course; and

(3) to finance a career and technical education course or program that leads to a license, certificate, or postsecondary degree.

(c) In awarding a grant under this section, the comptroller shall primarily consider the potential economic returns to the state from the development of the career and technical education course or program. The comptroller may also consider whether the course or program:

(1) is part of a new, emerging industry or high-demand occupation;

(2) offers new or expanded dual credit career and technical educational opportunities in public high schools; or

(3) is provided in cooperation with other public junior colleges or public technical institutes across existing service areas.

(d) To be eligible to receive a grant under this section, a public junior college or public technical institute must provide matching funds in accordance with rules adopted under Section 134.008. The matching funds may be obtained from any source available to the junior college or technical institute, including in-kind contributions, industry consortia, community or foundation grants, individual contributions, and local governmental agency operating funds.

Sec. 134.007. SCHOLARSHIPS. (a) The comptroller may award a scholarship to a public junior college or public technical institute student.

(b) To be eligible to receive a scholarship under this section, a student must:

(1) demonstrate financial need; and

(2) be enrolled in a training program for a high-demand occupation, as determined by the comptroller on the recommendation of the advisory board.

Sec. 134.008. RULES. The comptroller shall adopt rules as necessary for the administration of this chapter.

SECTION 65. Section 302.006(c), Labor Code, is amended to read as follows:

(c) To be eligible to receive a scholarship awarded under this section, a person must:

(1) be employed in a child-care facility, as defined by Section 42.002, Human Resources Code;

(2) intend to obtain a credential, certificate, or degree specified in Subsection (b);

(3) agree to work for at least 18 additional months in a child-care facility, as defined by Section 42.002, Human Resources Code, that accepts federal Child Care Development Fund subsidies and that, at the time the person begins to fulfill the work requirement imposed by this subdivision, is located:

(A) within the attendance zone of a public school campus considered low-performing under Subchapter E, Chapter 39 [~~Section 39.132~~], Education Code; or

(B) in an economically disadvantaged community, as determined by the commission; and

(4) satisfy any other requirements adopted by the commission.

SECTION 66. The following sections of the Education Code are repealed:

(1) Sections 39.034(e), (f), and (g); and

(2) Section 44.011.

SECTION 67. (a) Section 21.054(b), Education Code, is repealed.

(b) This repeal applies beginning with the 2009-2010 school year.

SECTION 68. (a) Not later than December 1, 2010, the Texas Education Agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the clerks of the standing committees of the senate and the house of representatives with primary jurisdiction over public education, and the Legislative Budget Board a transition plan containing the information described by Subsections (b) and (c) of this section.

(b) The transition plan referred to in Subsection (a) of this section must contain a detailed description of the process the commissioner of education will use to develop and implement this Act, including:

(1) the timeline;

(2) the means by which public school educators who are representative of this state and other stakeholders, including parents of public primary and secondary school students, and business and community leaders, will be included in the process to develop and implement this Act, in accordance with Section 7.055(b)(11), Education Code;

(3) the resources required to implement this Act, including resources that may be required by districts and campuses;

(4) the scope and sequence of tasks that must be accomplished to implement this Act; and

(5) the use of the standard rulemaking process to adopt any procedures necessary to implement this Act.

(c) Except as provided by this subsection, the transition plan referred to in Subsection (a) of this section must provide for the implementation during the 2011-2012 school year of changes made by this Act to the accreditation and academic accountability system. The assignment of accreditation statuses and any other academic accountability designations under this Act must be implemented beginning with the 2012-2013 school year.

(d) In conjunction with the transition plan prepared and delivered under this section, the commissioner of education shall provide for an equivalence of a performance rating, accreditation status, distinction designation, or performance indicator, as applicable, for each statutory performance rating or performance indicator that is superseded by this Act.

SECTION 69. To the extent of any conflict, the reenactment by this Act of Section 51.807, Education Code, prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 70. Section 11.203(d), Education Code, as amended by this Act, applies only to a principal employed at a school that is rated academically unacceptable during the 2008-2009 school year.

SECTION 71. (a) Except as provided by this section, this Act applies beginning with the 2009-2010 school year.

(a-1) Section 28.002(c-3), Education Code, as added by this Act, applies beginning with the 2010-2011 school year.

(b) Sections 39.023(e) and 39.053(g), Education Code, as amended by this Act, apply immediately.

(c) Section 39.023(o), Education Code, as added by this Act, applies beginning with a student who earns college credit during the 2010-2011 school year.

(d) Except as provided by Subsection (b) of this section, Subchapter C, Chapter 39, Education Code, as amended by this Act, applies beginning with the 2011-2012 school year.

(e) Except as provided by Subsection (f) of this section, Subchapter E, Chapter 39, Education Code, as amended by this Act, applies as provided by the transition plan adopted by the commissioner of education under Section 39.116, Education Code, as added by this Act.

(f) Notwithstanding any other provision of this Act, the commissioner of education may immediately apply any exceptions to interventions and sanctions under Subchapter E, Chapter 39, Education Code, as amended by this Act, to interventions and sanctions under Subchapter G, Chapter 39, Education Code, as that law existed prior to amendment by this Act.

SECTION 72. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

(Legler now present)

Representative Eissler moved to adopt the conference committee report on **HB 3**.

The motion to adopt the conference committee report on **HB 3** prevailed by (Record 1647): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Hartnett.

Absent, Excused — Hancock; Kuempel; Taylor.

Absent — Hunter; Leibowitz.

STATEMENTS OF VOTE

When Record No. 1647 was taken, I was in the house but away from my desk. I would have voted yes.

Hunter

When Record No. 1647 was taken, I was in the house but away from my desk. I would have voted yes.

Leibowitz

HR 2900 - ADOPTED (by Darby)

The following privileged resolution was laid before the house:

HR 2900

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2774** (self-directed and semi-independent status of state financial regulatory agencies and the licensing and regulation of certain persons involved in residential mortgage lending; making an appropriation; providing a penalty) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 2 of the bill, in added Section 156.102(b-1), Finance Code, so that it reads as follows:

(b-1) The finance commission on the commissioner's recommendation may adopt rules to promote a fair and orderly administration of the fund consistent with the purposes of Subchapter F.

Explanation: The change is necessary to correct an error in a cross-reference.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text not included in either the house or senate version of the bill by adding the following SECTION to the bill:

SECTION 28. (a) Title 2, Finance Code, is amended by adding Chapter 16 to read as follows:

CHAPTER 16. FINANCIAL REGULATORY AGENCIES: SELF-DIRECTED AND SEMI-INDEPENDENT

Sec. 16.001. DEFINITIONS. In this chapter:

(1) "Financial regulatory agency" means:

(A) the Texas Department of Banking;

- (B) the Department of Savings and Mortgage Lending;
- (C) the Office of Consumer Credit Commissioner; and
- (D) the Credit Union Department.

(2) "Policy-making body" means:

- (A) the Finance Commission of Texas for:
 - (i) the Texas Department of Banking;
 - (ii) the Department of Savings and Mortgage Lending; and
 - (iii) the Office of Consumer Credit Commissioner; and

(B) the Credit Union Commission for the Credit Union Department.

Sec. 16.002. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF FINANCIAL REGULATORY AGENCIES. Notwithstanding any other provision of law, a financial regulatory agency is self-directed and semi-independent as specified by this chapter. Any Act of the 81st Legislature that relates to a financial regulatory agency and that is inconsistent with the agency being self-directed and semi-independent may be implemented by the financial regulatory agency only on authorization by the policy-making body of the financial regulatory agency.

Sec. 16.003. BUDGET, REVENUES, AND EXPENSES. (a) A financial regulatory agency shall submit to the policy-making body of the financial regulatory agency a budget annually using generally accepted accounting principles. Notwithstanding any other provision of law, including the General Appropriations Act, the budget shall be adopted and approved only by the policy-making body of the financial regulatory agency.

(b) A financial regulatory agency shall be responsible for all direct and indirect costs of the agency's existence and operation. The financial regulatory agency may not directly or indirectly cause the general revenue fund to incur any cost.

(c) Subject to any limitations in a financial regulatory agency's enabling legislation, a financial regulatory agency may set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of the financial regulatory agency and funding the budget adopted and approved under Subsection (a).

(d) All fees and funds collected by a financial regulatory agency and any funds appropriated to the financial regulatory agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the financial regulatory agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers.

(e) Periodically, each financial regulatory agency shall submit to the agency's policy-making body, as directed by the policy-making body, a report of the receipts and expenditures of the financial regulatory agency.

(f) The fiscal year for a financial regulatory agency begins on September 1 and ends on August 31.

Sec. 16.004. AUDITS. This chapter does not affect the duty of the state auditor to audit a financial regulatory agency. The state auditor shall enter into a contract and schedule with each financial regulatory agency to conduct audits, including financial reports and performance audits. The financial regulatory agency shall reimburse the state auditor for all costs incurred in performing the audits and shall provide to the governor a copy of any audit performed.

Sec. 16.005. RECORDS; REPORTING REQUIREMENTS. (a) A financial regulatory agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of the agency.

(b) Before the beginning of each regular session of the legislature, each financial regulatory agency shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

- (1) an audit as required by Section 16.004;
- (2) a financial report of the previous fiscal year, including reports on financial condition and results of operations;
- (3) a description of all changes in fees imposed on regulated industries;
- (4) a report on changes in the regulatory jurisdiction of the agency, including the number of chartered financial institutions, license holders, and registrants subject to the agency's jurisdiction and any changes in those figures; and

(5) a list of all new rules adopted or repealed.

(c) In addition to the reporting requirements of Subsection (b), not later than November 1 of each year, each financial regulatory agency shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

- (1) the salary for all financial regulatory agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees;
- (2) the total amount of per diem expenses and travel expenses paid for each member of the agency's policy-making body, provided that only one report must be submitted regarding the Finance Commission of Texas;
- (3) the agency's operating plan and annual budget; and
- (4) a detailed report of all revenue received and all expenses incurred by the financial regulatory agency in the previous 12 months.

Sec. 16.006. ABILITY TO CONTRACT. (a) To carry out and promote the objectives of this chapter, a financial regulatory agency may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes, except as limited by Subsection (b).

(b) Any indebtedness, liability, or obligation of the financial regulatory agency incurred under this section may not:

- (1) create a debt or other liability of this state or another entity other than the financial regulatory agency; or
- (2) create any personal liability on the part of the members of the policy-making body or the body's or agency's employees.

Sec. 16.007. PROPERTY. A financial regulatory agency may:

(1) acquire by purchase, lease, gift, or any other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency;

(2) sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the financial regulatory agency determines is not necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions;

(3) construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency; and

(4) borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of the policy-making body of the financial regulatory agency, for a period not to exceed five years if necessary or convenient to the exercise of the financial regulatory agency's powers, rights, privileges, or functions.

Sec. 16.008. SUITS. The office of the attorney general shall represent a financial regulatory agency in any litigation. The attorney general may assess and collect from the financial regulatory agency reasonable attorney's fees associated with any litigation under this section.

Sec. 16.009. POST-PARTICIPATION LIABILITY. (a) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent financial regulatory agency. The agency's liability under this section includes liability for any lease entered into by the agency. This state is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(b) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent financial regulatory agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, shall be transferred to this state.

Sec. 16.010. DUE PROCESS; OPEN GOVERNMENT. A financial regulatory agency is:

(1) a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) a state agency for purposes of Chapters 2001 and 2005, Government Code.

Sec. 16.011. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM.

Employees of the financial regulatory agencies are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the agencies' transition to independent status as provided by this chapter has no effect on their membership or any benefits under that system.

Sec. 16.012. GIFTS. (a) Notwithstanding any other law, a financial regulatory agency may not accept a gift, grant, or donation:

(1) from a party to an enforcement action; or

(2) to pursue a specific investigation or enforcement action.

(b) A financial regulatory agency must:

(1) report each gift, grant, or donation that the agency receives as a separate item in the agency's report required under Section 16.005(b); and

(2) include with the report a statement indicating the purpose for which each gift, grant, or donation was donated and used.

(b) Section 11.104, Finance Code, is amended to read as follows:

Sec. 11.104. EXPENSES AND COMPENSATION OF MEMBERS. A member of the finance commission is entitled to:

(1) the reimbursement for reasonable and necessary expenses incidental to travel incurred in connection with the performance of official duties; and

(2) a per diem [as set by legislative appropriation] for each day that the member engages in the business of the finance commission.

(c) Section 11.110(c), Finance Code, is amended to read as follows:

(c) A person appointed to the finance commission is entitled to reimbursement under Section 11.104, as if the person were a member of the finance commission, [as provided by the General Appropriations Act,] for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) Section 11.204, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) The finance commission shall have charge and control of the property known as the Finance Commission Building and use of staff, equipment, and facilities of the finance agencies. The Finance Commission Building refers to the property located in the city of Austin and titled in the name of the Banking Section of the Finance Commission of Texas, as described by deed recorded in Volume 5080, Page 1099, of the Deed Records of Travis County, Texas.

(e) Section 15.2041(c), Finance Code, is amended to read as follows:

(c) A person appointed to the commission is entitled to reimbursement under Section 15.207, as if the person were a member of the commission, for travel expenses incurred in attending the training program, regardless of whether the attendance at the program occurs before or after the person qualifies for office[, as provided by the General Appropriations Act and as if the person were a member of the commission].

(f) Subchapter E, Chapter 15, Finance Code, is amended by adding Section 15.4011 to read as follows:

Sec. 15.4011. CREDIT UNION DEPARTMENT BUILDING. The commission shall have charge and control of the property known as the Credit Union Department Building and use of staff, equipment, and facilities of the department. The Credit Union Department Building refers to the property located in the city of Austin and titled in the name of the State of Texas for the use and benefit of the Credit Union Department, as described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

(g) Section 156.101(a), Finance Code, is amended to read as follows:

(a) The commissioner shall administer and enforce this chapter.

(h) Section 2165.007(b), Government Code, is amended to read as follows:

(b) Notwithstanding any other law, the commission shall provide facilities management services in relation to all state agency facilities in Travis County or a county adjacent to Travis County. The commission's duty does not apply to:

(1) a facility owned or operated by an institution of higher education;

(2) military facilities;

(3) facilities owned or operated by the Texas Department of Criminal Justice;

(4) facilities owned or operated by the Texas Youth Commission;

(5) facilities owned or operated by the Texas Department of Transportation;

(6) the Capitol, including the Capitol Extension, the General Land Office building, the Bob Bullock Texas State History Museum, any museum located on the Capitol grounds, the Governor's Mansion, and any property maintained by the Texas Historical Commission under Sections 442.0072 and 442.0073;

(7) a facility determined by the commission to be completely residential;

(8) a regional or field office of a state agency; ~~or~~

(9) a facility located within or on state park property;

(10) the property known as the Finance Commission Building described by deed recorded in Volume 5080, Page 1099, of the Deed Records of Travis County, Texas; or

(11) the property known as the Credit Union Department Building described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

(i) Sections 12.103, 13.005, 13.008, 14.053, 14.060, 15.104, 15.207(c), 15.308, 15.408, and 156.101(b) and (c), Finance Code, are repealed.

(j)(1) To provide a reasonable period for each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, to establish itself as a self-directed and semi-independent agency, the following amounts are appropriated from the general revenue fund to each of those financial regulatory agencies:

(A) for the state fiscal year ending August 31, 2010, an amount equal to 50 percent of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2009; and

(B) for the state fiscal year ending August 31, 2011, an amount equal to 50 percent of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2009.

(2) Subject to Section 16.003, Finance Code, as added by this section, the appropriations made by Subdivision (1) of this subsection may be spent by the financial regulatory agency to which they are made as the financial regulatory agency directs. The financial regulatory agency shall repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2010, not later than that date and as funds become available. The financial regulatory agency shall repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2011, not later than that date and as funds become available.

(k) The transfer of a financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, to self-directed and semi-independent status under Chapter 16, Finance Code, as added by this section, and the expiration of self-directed and semi-independent status may not act to cancel, suspend, or prevent:

(1) any debt owed to or by the financial regulatory agency;

(2) any fine, tax, penalty, or obligation of any party;

(3) any contract or other obligation of any party; or

(4) any action taken by the financial regulatory agency in the administration or enforcement of the agency's duties.

(l) Each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, shall continue to have and exercise the powers and duties allocated to the agency in the agency's enabling legislation, except as specifically amended by this section.

(m) Title to all supplies, materials, records, equipment, books, papers, and facilities used by each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, is transferred to each respective financial regulatory agency in fee simple. Nothing in this section shall have an effect on property owned by a financial regulatory agency on or before the effective date of this section.

(n) If a conflict exists between this section and another Act of the 81st Legislature, Regular Session, 2009, that relates to the self-directed and semi-independent status of a state financial regulatory agency, this section controls without regard to the relative dates of the enactment.

Explanation: The added language is necessary to improve the operations of state financial regulatory agencies that are self-directed and semi-independent.

(3) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to change the text of, and add text to, proposed SECTION 30 of the bill, so that it reads as follows:

SECTION 30. The provisions of this Act or the applications of those provisions are severable as provided by Section 311.032(c), Government Code. If the Secretary of Housing and Urban Development determines that any provision of Sections 1-27 and 29 of this Act fails to meet the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No.

110-289), that provision of this Act shall be held invalid; however, the remainder of this Act or the application of the provision to other persons or circumstances is not affected.

Explanation: The change is a conforming change to the bill made necessary because of the addition of text to the bill under Item (2) of this resolution.

HR 2900 was adopted by (Record 1648): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Taylor.

Absent — Hochberg; Hughes; Lewis.

HB 2774 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Truitt submitted the following conference committee report on **HB 2774**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2774** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
Averitt

Truitt
Darby

Eltife
 Van de Putte
 Watson

Flynn
 Hopson

On the part of the senate

On the part of the house

HB 2774, A bill to entitled An Act relating to self-directed and semi-independent status of state financial regulatory agencies and the licensing and regulation of certain persons involved in residential mortgage lending; making an appropriation; providing a penalty.

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

SECTION 1. Section 156.101, Finance Code, is amended by adding Subsection (d) to read as follows:

(d) The commissioner shall participate in the Nationwide Mortgage Licensing System and Registry as provided by Chapter 180.

SECTION 2. Section 156.102, Finance Code, is amended by adding Subsections (a-1) and (b-1) to read as follows:

(a-1) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(b-1) The finance commission on the commissioner's recommendation may adopt rules to promote a fair and orderly administration of the fund consistent with the purposes of Subchapter F.

SECTION 3. The heading to Section 156.104, Finance Code, is amended to read as follows:

Sec. 156.104. MORTGAGE INDUSTRY [~~BROKER~~] ADVISORY COMMITTEE.

SECTION 4. Sections 156.104(a), (b), and (h), Finance Code, are amended to read as follows:

(a) The mortgage industry [~~broker~~] advisory committee is created to advise and assist the commissioner.

(b) The advisory committee is composed of six members [~~to be~~] appointed by [as follows:

[~~(1)~~] the commissioner. Each of the members must be [shall appoint four members, each of whom]:

(1) under the regulatory authority of the department [~~(A) must hold a mortgage broker license];~~

(2) [~~(B) is~~] actively engaged in the business of originating, brokering, or funding residential mortgage loans at the time of appointment; and

(3) [~~(C) has been~~] primarily engaged in the business of originating, brokering, or funding residential mortgage loans for at least two years before the member's appointment[; and

[~~(2) the Texas Real Estate Commission shall appoint two members, each of whom must hold a real estate broker or salesperson license].~~

(h) In addition to other powers and duties delegated to it by the commissioner, the advisory committee shall advise the commissioner with respect to:

(1) the proposal and adoption of rules relating to:

- (A) the licensing of mortgage brokers and loan officers;
- (B) the education and experience requirements for licensing mortgage brokers and loan officers; and
- (C) conduct and ethics of mortgage brokers and loan officers;
- ~~(D) continuing education for licensed mortgage brokers and loan officers and the types of courses acceptable as continuing education courses under this chapter; and~~
- ~~(E) the granting or denying of an application or request for renewal for a mortgage broker license or loan officer license;]~~

(2) the form of or format for any applications or other documents under this chapter; and

(3) the interpretation, implementation, and enforcement of this chapter.

SECTION 5. Effective April 1, 2010, Section 156.104, Finance Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The members of the committee must include:

(1) three individuals licensed as residential mortgage loan originators under this chapter, one of whom must hold an active real estate broker or salesperson license issued under Chapter 1101, Occupations Code; and

(2) three individuals licensed as residential mortgage loan originators under Chapter 157, one of whom must hold an active real estate broker or salesperson license issued under Chapter 1101, Occupations Code.

SECTION 6. Section 156.202, Finance Code, is amended to read as follows:

Sec. 156.202. EXEMPTIONS. (a) The following persons are exempt from this chapter:

(1) any of the following entities or an employee of any of the following entities provided the employee is acting for the benefit of the employer:

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

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

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

(D) a mortgage banker registered under Chapter 157;

(E) an organization that qualifies for an exemption from state franchise and sales tax as a 501(c)(3) organization;

(F) a Farm Credit System institution; or

(G) a political subdivision of this state involved in affordable home ownership programs;

(2) an individual who makes a mortgage loan from the individual's own funds to a spouse, former spouse, or persons in the lineal line of consanguinity of the individual lending the money;

(3) an owner of real property who in any 12-consecutive-month period makes no more than five mortgage loans to purchasers of the property for all or part of the purchase price of the real estate against which the mortgage is secured;

(4) an individual who:

- (A) makes a mortgage loan from the individual's own funds;
- (B) is not an authorized lender under Chapter 342, Finance Code;

and

(C) does not regularly engage in the business of making or brokering mortgage loans; or

(5) an individual who is an exclusive agent of a registered financial services company under a written agreement prohibiting the individual from soliciting, processing, negotiating, or placing a mortgage loan with a person other than the registered financial services company or an affiliate of that company.

(b) An exclusive agent described by Subsection (a)(5) is considered an employee of the registered financial services company for purposes of this chapter.

SECTION 7. Section 156.203, Finance Code, is amended by adding Subsection (e) to read as follows:

(e) In addition to the disciplinary action by the commissioner authorized under Section 156.303(a)(7), the commissioner may collect a fee in an amount not to exceed \$50 for any returned check or credit card charge back.

SECTION 8. Section 156.204, Finance Code, is amended by amending Subsections (a) and (c) and adding Subsection (f) to read as follows:

(a) To be eligible to be licensed as a mortgage broker as an individual, the individual must:

- (1) be at least 18 years of age;
- (2) be a citizen of the United States or a lawfully admitted alien;
- (3) maintain a physical office in this state and designate that office in the application;

(4) provide the commissioner with satisfactory evidence that the applicant satisfies one of the following:

(A) the individual ~~[person]~~ has received a bachelor's degree in an area relating to finance, banking, or business administration from an accredited college or university and has 18 months of experience in the mortgage or lending field as evidenced by documentary proof of full-time employment as a mortgage broker or licensed loan officer with a mortgage broker or an individual ~~[a person]~~ exempt under Section 156.202;

(B) the individual ~~[person]~~ is licensed in this state as:

(i) an active real estate broker under Chapter 1101, Occupations Code;

(ii) an active attorney; or

(iii) an active general lines ~~[a local recording agent or]~~ insurance ~~[solicitor or]~~ agent or a limited lines ~~[for a legal reserve life]~~ insurance agent ~~[company under Chapter 21, Insurance Code]~~, or holds an equivalent insurance license under the ~~[Chapter 21,]~~ Insurance Code; or

(C) the individual ~~[person]~~ has three years of experience in the mortgage lending field as evidenced by documentary proof of full-time employment as a licensed loan officer with a mortgage broker or an individual ~~[a person]~~ exempt under Section 156.202;

(5) provide the commissioner with satisfactory evidence of:

(A) having passed an examination, offered by a testing service or company approved by the finance commission, that demonstrates knowledge of:

- (i) the mortgage industry; and
- (ii) the role and responsibilities of a mortgage broker; and

(B) compliance with the financial requirements of this chapter;

(6) not have been convicted of a criminal offense that the commissioner determines directly relates to the occupation of a mortgage broker as provided by Chapter 53, Occupations Code;

(7) satisfy the commissioner as to the individual's good moral character, including the individual's honesty, trustworthiness, and integrity;

(8) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued to the individual by the commissioner; and

(9) provide the commissioner with satisfactory evidence that:

(A) if the individual [person] has not been previously licensed as a mortgage broker or a loan officer under this subchapter, the individual [person] has completed 90 [classroom] hours of education courses approved by the commissioner under this section; or

(B) if the individual [person] has not been previously licensed as a mortgage broker under this subchapter but has been licensed as a loan officer under this subchapter, the individual [person] has successfully completed an additional 30 [classroom] hours of education courses approved by the commissioner under this section.

(c) To be eligible to be licensed as a loan officer a person must:

(1) be an individual who is at least 18 years of age;

(2) be a citizen of the United States or a lawfully admitted alien;

(3) designate in the application the name of the mortgage broker sponsoring the loan officer;

(4) provide the commissioner with satisfactory evidence that the applicant satisfies one of the following:

(A) ~~the person [meets one of the requirements described by Subsection (a)(4) and] has successfully completed at least 60 [classroom] hours of education courses approved by the commissioner; [under this section];~~

(B) ~~the person [has 18 months of experience as a loan officer as evidenced by documentary proof of full-time employment as a loan officer with a person exempt under Section 156.202 and] has successfully completed 30 [classroom] hours of education courses approved by the commissioner under this section if the applicant:~~

(i) has 18 months or more of experience as a mortgage loan officer as evidenced by documentary proof of full-time employment as a mortgage loan officer with a person exempt under Section 156.202; or

(ii) is a person who meets the qualifications under Subsection (a)(4)(B); or

(C) the person holds an active mortgage broker license issued under this chapter [for applications received prior to January 1, 2000, the mortgage broker that will sponsor the applicant provides a certification under

~~oath that the applicant has been provided necessary and appropriate education and training regarding all applicable state and federal law and regulations relating to mortgage loans];~~

(5) not have been convicted of a criminal offense that the commissioner determines directly relates to the occupation of a loan officer as provided by Chapter 53, Occupations Code;

(6) satisfy the commissioner as to the individual's good moral character, including the individual's honesty, trustworthiness, and integrity;

(7) provide the commissioner with satisfactory evidence of having passed an examination, offered by a testing service or company approved by the finance commission, that demonstrates knowledge of:

(A) the mortgage industry; and

(B) the role and responsibilities of a loan officer; and

(8) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued to the individual by the commissioner.

(f) Subsection (c) and this subsection expire January 1, 2011.

SECTION 9. Effective January 1, 2011, Section 156.204, Finance Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) To be eligible to be licensed as a loan officer a person must:

(1) be an individual who is at least 18 years of age;

(2) be a citizen of the United States or a lawfully admitted alien;

(3) designate in the application the name of the mortgage broker sponsoring the loan officer;

(4) provide the commissioner with satisfactory evidence that the applicant satisfies one of the following:

(A) the person has successfully completed at least 60 hours of education courses approved by the commissioner;

(B) the person has successfully completed 30 hours of education courses approved by the commissioner under this section if the applicant has 18 months or more of experience as a residential mortgage loan originator as evidenced by documentary proof of full-time employment; or

(C) the person holds an active license as a residential mortgage loan originator under Chapter 157 and has held that license for a minimum of one year;

(5) not have been convicted of a criminal offense that the commissioner determines directly relates to the occupation of a loan officer as provided by Chapter 53, Occupations Code;

(6) satisfy the commissioner as to the individual's good moral character, including the individual's honesty, trustworthiness, and integrity;

(7) provide the commissioner with satisfactory evidence of having passed an examination, offered by a testing service or company approved by the finance commission, that demonstrates knowledge of:

(A) the mortgage industry; and

(B) the role and responsibilities of a loan officer; and

(8) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued to the individual by the commissioner.

SECTION 10. Section 156.205, Finance Code, is amended to read as follows:

Sec. 156.205. FINANCIAL REQUIREMENTS ~~[FOR A MORTGAGE BROKER]~~. Financial requirements for holding a mortgage broker or loan officer license shall be met through participation in the fund. ~~[(a) In this section, "net assets" means the difference between total assets and total liabilities, as determined by generally acceptable accounting principles, and does not include any assets that are exempt under state or federal law. All assets and liabilities are subject to verification by the commissioner.~~

~~[(b) A mortgage broker must maintain net assets of at least \$25,000 or a surety bond in the amount of at least \$50,000. The term of the surety bond must coincide with the term of the license. The finance commission may adopt rules establishing the terms and conditions of the surety bond and the qualifications of the surety.~~

~~[(c) The commissioner shall require proof of compliance with this section at the time the mortgage broker applies for or renews a license.]~~

SECTION 11. Section 156.208, Finance Code, is amended by amending Subsections (a), (b), and (j) and adding Subsections (k) and (l) to read as follows:

(a) A mortgage broker license issued under this chapter is valid for a term of not more than two years and may be renewed on or before its expiration date if the mortgage broker:

(1) pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$375 and a recovery fund fee provided by Section 156.502;

(2) has not been convicted of a criminal offense the commissioner determines is directly related to the occupation of a mortgage broker as provided by Chapter 53, Occupations Code; and

(3) provides the commissioner with satisfactory evidence that the mortgage broker:

(A) has attended, during the term of the current license, 15 hours of continuing education courses that the commissioner, in accordance with the rules adopted by the finance commission under this section, has approved as continuing education courses; or

(B) maintains an active license in this state as:

(i) a real estate broker;

(ii) a real estate salesperson;

(iii) an attorney; or

(iv) an active general lines insurance [a local recording] agent or a limited lines [or] insurance [solicitor or] agent [for a legal reserve life insurance company under Chapter 21, Insurance Code], or holds an equivalent insurance license under the [Chapter 21,] Insurance Code.

(b) A loan officer license issued under this chapter is valid for a term of not more than two years and may be renewed on or before its expiration date if the loan officer:

(1) pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$275 [~~\$175~~] and a recovery fund fee provided by Section 156.502;

(2) has not been convicted of a criminal offense the commissioner determines is directly related to the occupation of a loan officer as provided by Chapter 53, Occupations Code; and

(3) provides the commissioner with satisfactory evidence that the loan officer:

(A) has attended, during the term of the current license, 15 hours of continuing education courses that the commissioner, in accordance with the rules adopted by the finance commission under this section, has approved as continuing education courses, including courses provided by or through the licensed mortgage broker with whom the loan officer is associated after submission to and approval by the commission; or

(B) maintains an active license in this state as:

(i) a real estate broker;

(ii) a real estate salesperson;

(iii) an attorney; or

(iv) an active general lines insurance [~~a local recording~~] agent or a limited lines [~~or~~] insurance [~~solicitor or~~] agent [~~for a legal reserve life insurance company under Chapter 21, Insurance Code~~], or holds an equivalent insurance license under the [~~Chapter 21,~~] Insurance Code.

(j) The commissioner may deny the renewal of a mortgage broker license or a loan officer license if:

(1) the mortgage broker or loan officer is in violation of this chapter, a rule adopted under this chapter, or any order previously issued to the individual by the commissioner;

(2) the mortgage broker or loan officer is in default in the payment of any administrative penalty, fee, charge, or other indebtedness owed under this title; [~~or~~]

(3) during the current term of the license, the commissioner becomes aware of any fact that would have been grounds for denial of an original license if the fact had been known by the commissioner on the date the license was granted; or

(4) the mortgage broker or loan officer is in default on a student loan administered by the Texas Guaranteed Student Loan Corporation, pursuant to Section 57.491, Education Code.

(k) In addition to the disciplinary action by the commissioner authorized under Section 156.303(a)(7), the commissioner may collect a fee in an amount not to exceed \$50 for any returned check or credit card charge back.

(l) Subsections (a) and (b) and this subsection expire January 1, 2011.

SECTION 12. Effective January 1, 2011, Section 156.208, Finance Code, is amended by adding Subsections (a-1) and (b-1) to read as follows:

(a-1) A mortgage broker license issued under this chapter is valid for a term of not more than two years and may be renewed on or before its expiration date if the mortgage broker:

(1) pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$375 and a recovery fund fee provided by Section 156.502;

(2) has not been convicted of a criminal offense the commissioner determines is directly related to the occupation of a mortgage broker as provided by Chapter 53, Occupations Code; and

(3) provides the commissioner with satisfactory evidence that the mortgage broker has attended, during the term of the current license, continuing education courses in accordance with the applicable requirements of Chapter 180.

(b-1) A loan officer license issued under this chapter is valid for a term of not more than two years and may be renewed on or before its expiration date if the loan officer:

(1) pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$275 and a recovery fund fee provided by Section 156.502;

(2) has not been convicted of a criminal offense the commissioner determines is directly related to the occupation of a loan officer as provided by Chapter 53, Occupations Code; and

(3) provides the commissioner with satisfactory evidence that the loan officer has attended, during the term of the current license, continuing education courses in accordance with the applicable requirements of Chapter 180.

SECTION 13. The heading to Section 156.212, Finance Code, is amended to read as follows:

Sec. 156.212. MAINTENANCE AND LOCATION OF OFFICES[~~;- DISPLAY OF LICENSE CERTIFICATES~~].

SECTION 14. Section 156.214(b), Finance Code, as added by Chapter 228 (HB 1716), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(b) To be eligible to register as a registered financial services company, a person must:

(1) be a depository institution exempt from this chapter under Section 156.202(1)(A) or (B) and chartered and regulated by the Office of Thrift Supervision or the Office of the Comptroller of the Currency, or be a subsidiary or affiliate of the institution;

(2) provide the commissioner with satisfactory evidence of an undertaking of accountability in a form acceptable to the commissioner, supported by a surety bond equal to \$1 million to cover the person's responsibility for mortgage broker activities of each exclusive agent;

(3) provide a business plan satisfactory to the commissioner that sets forth the person's plan to provide education to its exclusive agents, handle consumer complaints relating to its exclusive agents, and supervise the mortgage broker activities of its exclusive agents;

(4) pay an annual registration fee in an amount determined as follows [~~of the lesser of~~]:

(A) if the registered financial services company has 2,000 or fewer exclusive agents acting in this state, an amount equal to the lesser of:

(i) one-half of the license fee for a loan officer under Section 156.203(c)(1), multiplied by the number of exclusive agents under contract to act for the person in this state; or

(ii) ~~(B)~~ \$200,000;

(B) if the registered financial services company has at least 2,001 but not more than 2,500 exclusive agents acting in this state, \$225,000;

(C) if the registered financial services company has at least 2,501 but not more than 3,000 exclusive agents acting in this state, \$250,000;

(D) if the registered financial services company has at least 3,001 but not more than 5,000 exclusive agents acting in this state, \$300,000; or

(E) if the registered financial services company has at least 5,001 exclusive agents acting in this state, \$350,000; and

(5) designate an officer of the person to be responsible for the activities of the exclusive agents.

SECTION 15. Section 156.301, Finance Code, is amended by adding Subsection (h) to read as follows:

(h) The commissioner may require reimbursement in an amount not to exceed \$325 for each examiner a day for on-site examination or investigation of a mortgage broker if records are located out of state or if the review is considered necessary beyond the routine examination process.

SECTION 16. Section 156.302(a), Finance Code, is amended to read as follows:

(a) The commissioner, after notice and opportunity for hearing, may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

SECTION 17. Section 156.303, Finance Code, is amended by amending Subsections (a), (e), (g), (h), and (j) and adding Subsection (a-1) to read as follows:

(a) The commissioner may order disciplinary action against a licensed mortgage broker or a licensed loan officer when the commissioner, after notice and opportunity for ~~(a)~~ hearing, has determined that the person:

(1) obtained a license, including a renewal of a license, under this chapter through a false or fraudulent representation or made a material misrepresentation in an application for a license or for the renewal of a license under this chapter;

(2) published or caused to be published an advertisement related to the business of a mortgage broker or loan officer that:

(A) is misleading;

(B) is likely to deceive the public;

(C) in any manner tends to create a misleading impression;

(D) fails to identify as a mortgage broker or loan officer the person causing the advertisement to be published; or

(E) violates federal or state law;

(3) while performing an act for which a license under this chapter is required, engaged in conduct that constitutes improper, fraudulent, or dishonest dealings;

(4) entered a plea of guilty or nolo contendere to, or is convicted of, a criminal offense that is a felony or that involves fraud or moral turpitude in a court of this or another state or in a federal court;

(5) failed to use a fee collected in advance of closing of a mortgage loan for a purpose for which the fee was paid;

(6) charged or received, directly or indirectly, a fee for assisting a mortgage applicant in obtaining a mortgage loan before all of the services that the person agreed to perform for the mortgage applicant are completed, and the proceeds of the mortgage loan have been disbursed to or on behalf of the mortgage applicant, except as provided by Section 156.304;

(7) failed within a reasonable time to honor a check issued to the commissioner after the commissioner has mailed a request for payment by certified mail to the person's last known business address as reflected by the commissioner's records;

(8) paid compensation to a person who is not licensed or exempt under this chapter for acts for which a license under this chapter is required;

(9) induced or attempted to induce a party to a contract to breach the contract so the person may make a mortgage loan;

(10) published or circulated an unjustified or unwarranted threat of legal proceedings in matters related to the person's actions or services as a mortgage broker or loan officer, as applicable;

(11) established an association, by employment or otherwise, with a person not licensed or exempt under this chapter who was expected or required to act as a mortgage broker or loan officer;

(12) aided, abetted, or conspired with a person to circumvent the requirements of this chapter;

(13) acted in the dual capacity of a mortgage broker or loan officer and real estate broker, salesperson, or attorney in a transaction without the knowledge and written consent of the mortgage applicant or in violation of applicable requirements under federal law;

(14) discriminated against a prospective borrower on the basis of race, color, religion, sex, national origin, ancestry, familial status, or a disability;

(15) failed or refused on demand to:

(A) produce a document, book, or record concerning a mortgage loan transaction conducted by the mortgage broker or loan officer for inspection by the commissioner or the commissioner's authorized personnel or representative;

(B) give the commissioner or the commissioner's authorized personnel or representative free access to the books or records relating to the person's business kept by an officer, agent, or employee of the person or any business entity through which the person conducts mortgage brokerage activities, including a subsidiary or holding company affiliate; or

(C) provide information requested by the commissioner as a result of a formal or informal complaint made to the commissioner;

(16) failed without just cause to surrender, on demand, a copy of a document or other instrument coming into the person's possession that was provided to the person by another person making the demand or that the person making the demand is under law entitled to receive;

(17) disregarded or violated this chapter, a rule adopted by the finance commission under this chapter, or an order issued by the commissioner under this chapter; or

(18) provided false information to the commissioner during the course of an investigation or inspection.

(a-1) The commissioner may also order disciplinary action after notice and opportunity for hearing against a licensed mortgage broker or a licensed loan officer if the commissioner becomes aware during the term of the license of any fact that would have been grounds for denial of an original license if the fact had been known by the commissioner on the date the license was issued.

(e) The commissioner, after giving notice and an opportunity for hearing, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of the violation. In addition to any other remedy provided by law, the commissioner may institute in district court a suit for injunctive relief and to collect the administrative penalty. A bond is not required of the commissioner with respect to injunctive relief granted under this subsection. ~~[A penalty collected under this subsection shall be deposited in the fund.]~~

(g) If a person fails to pay an administrative penalty that has become final or fails to comply with an order of the commissioner that has become final, in addition to any other remedy provided under law the commissioner, on not less than 10 days' notice to the person, may without a prior hearing suspend the person's mortgage broker license or loan officer license. The suspension shall continue until the person has complied with the ~~[cease and desist]~~ order or paid the administrative penalty. During the period of suspension, the person may not originate a mortgage loan and all compensation received by the person during the period of suspension is subject to forfeiture as provided by Section 156.406(b).

(h) An order of suspension under Subsection (g) may be appealed. An appeal is a contested case governed by Chapter 2001, Government Code. A hearing of an appeal of an order of suspension issued under Subsection (g) shall be held not later than the 30th ~~[15th]~~ day after the date of receipt of the notice of appeal. The appellant shall be provided at least three days' notice of the time and place of the hearing.

(j) The [On notice and opportunity for hearing, the] commissioner may, on not less than 10 days' notice to the person, suspend a person's license without a prior hearing under this chapter if an indictment or information is filed or returned alleging that the person committed a criminal offense involving fraud, theft, or dishonesty. The suspension continues until the criminal case is dismissed or the person is acquitted. A person may appeal the suspension in accordance with Subsection (h).

SECTION 18. Section 156.401(a), Finance Code, is amended to read as follows:

(a) The commissioner may employ an enforcement staff to investigate and prosecute complaints made against persons licensed under this chapter. The commissioner may employ a hearings officer to conduct hearings under this section. The commissioner may collect and deposit any court costs collected pursuant to a final order.

SECTION 19. Section 156.501, Finance Code, is amended by amending Subsections (a) and (b) and adding Subsections (d), (e), and (f) to read as follows:

(a) The commissioner shall establish, administer, and maintain a mortgage broker recovery fund as provided by this subchapter. The amounts received by the commissioner for deposit in the fund shall be held by the commissioner in trust for carrying out the purposes of the fund.

(b) Subject to this subsection, the ~~[The]~~ fund shall be used to reimburse residential mortgage loan applicants for actual damages incurred because of ~~[aggrieved persons to whom a court awards actual damages because of certain]~~ acts committed by a mortgage broker or loan officer who was licensed under this chapter when the act was committed. The use of the fund is limited to reimbursement for out-of-pocket losses caused by an act by a mortgage broker or loan officer that constitutes a violation of Section 156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12), (13), or (16) or 156.304. Payments from the fund may not be made to a lender who makes a mortgage loan originated by the mortgage broker or loan officer or who acquires a mortgage loan originated by the mortgage broker or loan officer.

(d) The fund may be used at the discretion of the commissioner to reimburse expenses incurred to secure and destroy residential mortgage loan documents that have been abandoned by a current or former individual or entity under the regulatory authority of the department.

(e) Payments from the fund shall be reduced by the amount of any recovery from the mortgage broker or loan officer or from any surety, insurer, or other person or entity making restitution to the applicant on behalf of the mortgage broker or loan officer.

(f) The commissioner, as manager of the fund, is entitled to reimbursement for reasonable and necessary costs and expenses incurred in the management of the fund, including costs and expenses incurred with regard to applications filed under Section 156.504.

SECTION 20. Section 156.502(a), Finance Code, is amended to read as follows:

(a) On an application for an original license or for renewal of a license issued under this chapter, the applicant, in addition to paying the original application fee or renewal fee, shall pay a fee in an amount determined by the commissioner, not to exceed \$20 [fee]. The fee shall be deposited in the fund.

SECTION 21. Section 156.502(b), Finance Code, is amended to read as follows:

(b) If the balance remaining in the fund at the end of a calendar year ~~[after 2010]~~ is more [less] than \$3.5 million, the amount of money in excess of that amount shall be available to the commissioner to offset the expenses of participating in and sharing information with the Nationwide Mortgage Licensing

~~System and Registry in accordance with Chapter 180 [\$500,000, each mortgage broker and loan officer licensed under this chapter, on the next renewal of the license, shall pay, in addition to any other required fees, the lesser of a \$10 fee or a pro rata share of the amount necessary to bring the fund to \$1 million. The fee shall be deposited in the fund].~~

SECTION 22. Section 156.503, Finance Code, is amended to read as follows:

Sec. 156.503. STATUTE OF LIMITATIONS. (a) An application for the recovery of actual damages [action for a judgment that subsequently results in an order for collection] from the fund under Section 156.504 may not be filed [instituted] after the second anniversary of the date of the alleged act or omission causing the actual damages or the date the act or omission should reasonably have been discovered.

(b) This section does not apply to a subrogation claim brought by the commissioner for recovery of money paid out of the fund [on which the cause of action accrues].

SECTION 23. Section 156.504, Finance Code, is amended to read as follows:

Sec. 156.504. PROCEDURE FOR RECOVERY. (a) To recover from the fund, a residential mortgage loan applicant must file a written sworn application with the commissioner in the form prescribed by [An aggrieved person who recovers against a mortgage broker or loan officer licensed under this chapter a valid court judgment for conduct described by Section 156.501 that occurred on or after January 1, 2000, after final judgment has been entered, execution returned nulla bona, and a judgment lien perfected, may file a verified claim in the court in which the judgment was entered and, on 20 days' written notice to] the commissioner [and to the judgment debtor, may apply to the court for an order directing payment from the fund of any unpaid judgment amount], subject to Section 156.503. A person who knowingly makes a false statement in connection with applying for money out of the fund may be subject to criminal prosecution under Section 37.10, Penal Code.

(b) The residential mortgage loan applicant [On the hearing on the application, the aggrieved person] is required to show:

(1) that the applicant's claim [judgment] is based on facts allowing recovery under Section 156.501; and

(2) that the applicant:

(A) [person] is not a spouse of the licensed mortgage broker or loan officer;

(B) is not a child, parent, grandchild, grandparent, or sibling, including relationships by adoption, of the licensed mortgage broker or loan officer;

(C) is not a person sharing living quarters with the licensed mortgage broker or loan officer or a current or former employer, employee, or associate of the licensed mortgage broker or loan officer;

(D) is not a person who has aided, abetted, or participated other than as a victim with the [of the debtor, or the personal representative of the spouse, and that the person is not] licensed [as a] mortgage broker or loan officer in any activity that is illegal under Section 156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12), (13), or (16) or Section 156.304 or is not the personal representative of a licensed mortgage broker or loan officer; and

(E) is not licensed as a mortgage broker or loan officer under this chapter who is seeking to recover any compensation in the transaction or transactions for which the application for payment is made[;

~~[(3) that based on the best available information, the judgment debtor lacks sufficient attachable assets in this state or any other state to satisfy the judgment and the surety bond required by Section 156.205 is not sufficient to satisfy the judgment; and~~

~~[(4) the amount that may be realized from the sale of property or other assets liable to be sold or applied in satisfaction of the judgment and the balance remaining due on the judgment after application of the amount that may be realized].~~

(c) On receipt of the verified application, the commissioner's staff shall:

(1) notify each appropriate license holder and the issuer of any surety bond issued in connection with their licenses; and

(2) investigate the application and issue a preliminary determination, giving the applicant, the license holder, and any surety an opportunity to resolve the matter by agreement or to dispute the preliminary determination.

(d) If the preliminary determination under Subsection (c)(2) is not otherwise resolved by agreement and is not disputed by written notice to the commissioner before the 31st day after the notification date, the preliminary determination automatically becomes final and the commissioner shall make payment from the fund, subject to [A recovery on the judgment against a single defendant made before payment from the fund shall be applied first by the creditor to actual damages.

~~[(d) The court shall make an order directed to the commissioner requiring payment from the fund of the amount the court finds to be payable on the claim, pursuant to and in accordance with the limitations contained in this subchapter, if the court is satisfied, on the hearing, of the truth of all matters required to be shown by the aggrieved person under Subsection (b) and that the aggrieved person has satisfied all of the requirements of this section.~~

~~[(e) When the commissioner receives notice of entry of a final judgment and a hearing is scheduled under this section, the commissioner may notify the attorney general of the commissioner's desire to enter an appearance, file a response, appear at the court hearing, defend the action, or to take any other appropriate action. In taking any action described by this subsection, the commissioner and the attorney general shall act only to protect the fund from spurious or unjust claims or to ensure compliance with the requirements for recovery under this subchapter.~~

~~[(f) The commissioner may relitigate any issue material and relevant in the hearing on the application that was determined in the underlying action on which the judgment in favor of the applicant was based.]~~

~~[(g) If the court finds that the aggregate amount of claims against a licensed mortgage broker or loan officer exceeds] the limits of [contained in] Section 156.505.~~

~~(e) If the preliminary determination under Subsection (c)(2) is disputed by the applicant, the license holder, or any surety by written notice to the commissioner before the 31st day after the notification date, the matter shall be set for a hearing governed by Chapter 2001, Government Code, and the hearing rules of the finance commission ~~[, the court shall reduce proportionately the amount the court finds payable on the claim].~~~~

SECTION 24. Section 156.505, Finance Code, is amended to read as follows:

Sec. 156.505. RECOVERY LIMITS. (a) A person entitled to receive payment out of the fund is entitled to receive reimbursement of actual, out-of-pocket damages~~[, reasonable attorney's fees, and court costs as determined by the court]~~ as provided by this section.

(b) A payment from the fund may be made ~~[only pursuant to a court order]~~ as provided by Section 156.504 and this section. A payment for claims:

(1) arising out of the same transaction, including ~~[attorney's fees,] interest, [and court costs,]~~ is limited in the aggregate to \$25,000, regardless of the number of claimants; and

(2) ~~[based on judgments]~~ against a single person licensed as a mortgage broker or loan officer under this chapter arising out of separate transactions, including interest, is limited in the aggregate to \$50,000 until the fund has been reimbursed for all amounts paid.

(c) In the event there are concurrent claims under Subsections (b)(1) and (2) that exceed the amounts available under the fund, the commissioner shall prorate recovery based on the amount of damage suffered by each claimant.

SECTION 25. Section 156.506, Finance Code, is amended by amending Subsections (a) and (c) and adding Subsection (a-1) to read as follows:

(a) The commissioner may revoke a license issued under this chapter on proof that the commissioner has made a payment from the fund of any amount toward satisfaction of a claim ~~[judgment]~~ against a ~~[person licensed as a]~~ mortgage broker or loan officer under this chapter.

(a-1) The commissioner may seek to collect from a mortgage broker or loan officer the amount paid from the fund on behalf of the mortgage broker or loan officer and any costs associated with investigating and processing the claim against the fund or with collection of reimbursement for payments from the fund, plus interest at the current legal rate until the amount has been repaid in full. Any amount, including interest, recovered by the commissioner shall be deposited to the credit of the fund.

(c) A person on whose behalf payment was made from the fund is not eligible to receive a new license under this chapter until the person has repaid in full, plus interest at the current legal rate, the amount paid from the fund on the

person's behalf and any costs associated with investigating and processing the claim against the fund or with collection of reimbursement for payments from the fund.

SECTION 26. Section 156.507, Finance Code, is amended to read as follows:

Sec. 156.507. SUBROGATION. When the commissioner has paid an applicant [a judgment creditor] an amount from the fund under Section 156.504 [as directed by the court], the commissioner is subrogated to all of the rights of the applicant [judgment creditor] to the extent of the amount paid. The applicant [judgment creditor] shall assign all of the applicant's [creditor's] right, title, and interest in [the judgment up to the amount paid by the commissioner, and that amount has priority for repayment in the event of] any subsequent [recovery on the] judgment against the license holder, up to the [-Any] amount paid [-, including interest, recovered] by the commissioner. Any amount, including interest, recovered by the commissioner on the assignment [judgment] shall be deposited to the credit of the fund.

SECTION 27. Section 156.508, Finance Code, is amended to read as follows:

Sec. 156.508. FAILURE TO COMPLY WITH SUBCHAPTER OR RULE ADOPTED BY THE FINANCE COMMISSION. The failure of an applicant under Section 156.504 [aggrieved person] to comply with a provision of this subchapter relating to the fund or with a rule adopted by the finance commission relating to the fund constitutes a waiver of any rights under this subchapter.

SECTION 28. (a) Title 2, Finance Code, is amended by adding Chapter 16 to read as follows:

CHAPTER 16. FINANCIAL REGULATORY AGENCIES: SELF-DIRECTED AND SEMI-INDEPENDENT

Sec. 16.001. DEFINITIONS. In this chapter:

- (1) "Financial regulatory agency" means:
 - (A) the Texas Department of Banking;
 - (B) the Department of Savings and Mortgage Lending;
 - (C) the Office of Consumer Credit Commissioner; and
 - (D) the Credit Union Department.
- (2) "Policy-making body" means:
 - (A) the Finance Commission of Texas for:
 - (i) the Texas Department of Banking;
 - (ii) the Department of Savings and Mortgage Lending; and
 - (iii) the Office of Consumer Credit Commissioner; and
 - (B) the Credit Union Commission for the Credit Union Department.

Sec. 16.002. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF FINANCIAL REGULATORY AGENCIES. Notwithstanding any other provision of law, a financial regulatory agency is self-directed and semi-independent as specified by this chapter. Any Act of the 81st Legislature that relates to a financial regulatory agency and that is inconsistent with the

agency being self-directed and semi-independent may be implemented by the financial regulatory agency only on authorization by the policy-making body of the financial regulatory agency.

Sec. 16.003. BUDGET, REVENUES, AND EXPENSES. (a) A financial regulatory agency shall submit to the policy-making body of the financial regulatory agency a budget annually using generally accepted accounting principles. Notwithstanding any other provision of law, including the General Appropriations Act, the budget shall be adopted and approved only by the policy-making body of the financial regulatory agency.

(b) A financial regulatory agency shall be responsible for all direct and indirect costs of the agency's existence and operation. The financial regulatory agency may not directly or indirectly cause the general revenue fund to incur any cost.

(c) Subject to any limitations in a financial regulatory agency's enabling legislation, a financial regulatory agency may set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of the financial regulatory agency and funding the budget adopted and approved under Subsection (a).

(d) All fees and funds collected by a financial regulatory agency and any funds appropriated to the financial regulatory agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the financial regulatory agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers.

(e) Periodically, each financial regulatory agency shall submit to the agency's policy-making body, as directed by the policy-making body, a report of the receipts and expenditures of the financial regulatory agency.

(f) The fiscal year for a financial regulatory agency begins on September 1 and ends on August 31.

Sec. 16.004. AUDITS. This chapter does not affect the duty of the state auditor to audit a financial regulatory agency. The state auditor shall enter into a contract and schedule with each financial regulatory agency to conduct audits, including financial reports and performance audits. The financial regulatory agency shall reimburse the state auditor for all costs incurred in performing the audits and shall provide to the governor a copy of any audit performed.

Sec. 16.005. RECORDS; REPORTING REQUIREMENTS. (a) A financial regulatory agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of the agency.

(b) Before the beginning of each regular session of the legislature, each financial regulatory agency shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

(1) an audit as required by Section 16.004;

(2) a financial report of the previous fiscal year, including reports on financial condition and results of operations;

(3) a description of all changes in fees imposed on regulated industries;
(4) a report on changes in the regulatory jurisdiction of the agency, including the number of chartered financial institutions, license holders, and registrants subject to the agency's jurisdiction and any changes in those figures;
and

(5) a list of all new rules adopted or repealed.

(c) In addition to the reporting requirements of Subsection (b), not later than November 1 of each year, each financial regulatory agency shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

(1) the salary for all financial regulatory agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees;

(2) the total amount of per diem expenses and travel expenses paid for each member of the agency's policy-making body, provided that only one report must be submitted regarding the Finance Commission of Texas;

(3) the agency's operating plan and annual budget; and

(4) a detailed report of all revenue received and all expenses incurred by the financial regulatory agency in the previous 12 months.

Sec. 16.006. ABILITY TO CONTRACT. (a) To carry out and promote the objectives of this chapter, a financial regulatory agency may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes, except as limited by Subsection (b).

(b) Any indebtedness, liability, or obligation of the financial regulatory agency incurred under this section may not:

(1) create a debt or other liability of this state or another entity other than the financial regulatory agency; or

(2) create any personal liability on the part of the members of the policy-making body or the body's or agency's employees.

Sec. 16.007. PROPERTY. A financial regulatory agency may:

(1) acquire by purchase, lease, gift, or any other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency;

(2) sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the financial regulatory agency determines is not necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions;

(3) construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency; and

(4) borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of the policy-making body of the financial regulatory agency, for a period not to exceed five years if necessary or convenient to the exercise of the financial regulatory agency's powers, rights, privileges, or functions.

Sec. 16.008. SUITS. The office of the attorney general shall represent a financial regulatory agency in any litigation. The attorney general may assess and collect from the financial regulatory agency reasonable attorney's fees associated with any litigation under this section.

Sec. 16.009. POST-PARTICIPATION LIABILITY. (a) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent financial regulatory agency. The agency's liability under this section includes liability for any lease entered into by the agency. This state is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(b) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent financial regulatory agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, shall be transferred to this state.

Sec. 16.010. DUE PROCESS; OPEN GOVERNMENT. A financial regulatory agency is:

(1) a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) a state agency for purposes of Chapters 2001 and 2005, Government Code.

Sec. 16.011. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the financial regulatory agencies are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the agencies' transition to independent status as provided by this chapter has no effect on their membership or any benefits under that system.

Sec. 16.012. GIFTS. (a) Notwithstanding any other law, a financial regulatory agency may not accept a gift, grant, or donation:

(1) from a party to an enforcement action; or

(2) to pursue a specific investigation or enforcement action.

(b) A financial regulatory agency must:

(1) report each gift, grant, or donation that the agency receives as a separate item in the agency's report required under Section 16.005(b); and

(2) include with the report a statement indicating the purpose for which each gift, grant, or donation was donated and used.

(b) Section 11.104, Finance Code, is amended to read as follows:

Sec. 11.104. EXPENSES AND COMPENSATION OF MEMBERS. A member of the finance commission is entitled to:

(1) the reimbursement for reasonable and necessary expenses incidental to travel incurred in connection with the performance of official duties; and

(2) a per diem [~~as set by legislative appropriation~~] for each day that the member engages in the business of the finance commission.

(c) Section 11.110(c), Finance Code, is amended to read as follows:

(c) A person appointed to the finance commission is entitled to reimbursement under Section 11.104, as if the person were a member of the finance commission, [~~as provided by the General Appropriations Act,~~] for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) Section 11.204, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) The finance commission shall have charge and control of the property known as the Finance Commission Building and use of staff, equipment, and facilities of the finance agencies. The Finance Commission Building refers to the property located in the city of Austin and titled in the name of the Banking Section of the Finance Commission of Texas, as described by deed recorded in Volume 5080, Page 1099, of the Deed Records of Travis County, Texas.

(e) Section 15.2041(c), Finance Code, is amended to read as follows:

(c) A person appointed to the commission is entitled to reimbursement under Section 15.207, as if the person were a member of the commission, for travel expenses incurred in attending the training program, regardless of whether the attendance at the program occurs before or after the person qualifies for office[, ~~as provided by the General Appropriations Act and as if the person were a member of the commission~~].

(f) Subchapter E, Chapter 15, Finance Code, is amended by adding Section 15.4011 to read as follows:

Sec. 15.4011. CREDIT UNION DEPARTMENT BUILDING. The commission shall have charge and control of the property known as the Credit Union Department Building and use of staff, equipment, and facilities of the department. The Credit Union Department Building refers to the property located in the city of Austin and titled in the name of the State of Texas for the use and benefit of the Credit Union Department, as described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

(g) Section 156.101(a), Finance Code, is amended to read as follows:

(a) The commissioner shall administer and enforce this chapter.

(h) Section 2165.007(b), Government Code, is amended to read as follows:

(b) Notwithstanding any other law, the commission shall provide facilities management services in relation to all state agency facilities in Travis County or a county adjacent to Travis County. The commission's duty does not apply to:

(1) a facility owned or operated by an institution of higher education;

(2) military facilities;

(3) facilities owned or operated by the Texas Department of Criminal Justice;

(4) facilities owned or operated by the Texas Youth Commission;

(5) facilities owned or operated by the Texas Department of Transportation;

(6) the Capitol, including the Capitol Extension, the General Land Office building, the Bob Bullock Texas State History Museum, any museum located on the Capitol grounds, the Governor's Mansion, and any property maintained by the Texas Historical Commission under Sections 442.0072 and 442.0073;

(7) a facility determined by the commission to be completely residential;

(8) a regional or field office of a state agency; ~~or~~

(9) a facility located within or on state park property;

(10) the property known as the Finance Commission Building described by deed recorded in Volume 5080, Page 1099, of the Deed Records of Travis County, Texas; or

(11) the property known as the Credit Union Department Building described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

(i) Sections 12.103, 13.005, 13.008, 14.053, 14.060, 15.104, 15.207(c), 15.308, 15.408, and 156.101(b) and (c), Finance Code, are repealed.

(j)(1) To provide a reasonable period for each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, to establish itself as a self-directed and semi-independent agency, the following amounts are appropriated from the general revenue fund to each of those financial regulatory agencies:

(A) for the state fiscal year ending August 31, 2010, an amount equal to 50 percent of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2009; and

(B) for the state fiscal year ending August 31, 2011, an amount equal to 50 percent of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2009.

(2) Subject to Section 16.003, Finance Code, as added by this section, the appropriations made by Subdivision (1) of this subsection may be spent by the financial regulatory agency to which they are made as the financial regulatory agency directs. The financial regulatory agency shall repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2010, not later than that date and as funds become available. The financial regulatory agency shall repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2011, not later than that date and as funds become available.

(k) The transfer of a financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, to self-directed and semi-independent status under Chapter 16, Finance Code, as added by this section, and the expiration of self-directed and semi-independent status may not act to cancel, suspend, or prevent:

- (1) any debt owed to or by the financial regulatory agency;
- (2) any fine, tax, penalty, or obligation of any party;
- (3) any contract or other obligation of any party; or
- (4) any action taken by the financial regulatory agency in the administration or enforcement of the agency's duties.

(l) Each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, shall continue to have and exercise the powers and duties allocated to the agency in the agency's enabling legislation, except as specifically amended by this section.

(m) Title to all supplies, materials, records, equipment, books, papers, and facilities used by each financial regulatory agency, as defined by Section 16.001, Finance Code, as added by this section, is transferred to each respective financial regulatory agency in fee simple. Nothing in this section shall have an effect on property owned by a financial regulatory agency on or before the effective date of this section.

(n) If a conflict exists between this section and another Act of the 81st Legislature, Regular Session, 2009, that relates to the self-directed and semi-independent status of a state financial regulatory agency, this section controls without regard to the relative dates of the enactment.

SECTION 29. Sections 156.212(c) and (d) and 156.502(c), Finance Code, are repealed.

SECTION 30. The provisions of this Act or the applications of those provisions are severable as provided by Section 311.032(c), Government Code. If the Secretary of Housing and Urban Development determines that any provision of Sections 1-27 and 29 of this Act fails to meet the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289), that provision of this Act shall be held invalid; however, the remainder of this Act or the application of the provision to other persons or circumstances is not affected.

SECTION 31. To the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 32. (a) Subject to Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Sections 1, 2, and 18 of this Act take effect only if **HB 10** or another similar bill of the Regular Session of the 81st Legislature relating to the licensing of residential mortgage loan originators is enacted and becomes law. If **HB 10** or another similar bill of the Regular Session of the 81st Legislature relating to the licensing of residential mortgage loan originators does not become law, Sections 1, 2, and 18 of this Act do not take effect.

Representative Truitt moved to adopt the conference committee report on **HB 2774**.

The motion to adopt the conference committee report on **HB 2774** prevailed by (Record 1649): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Taylor.

Absent — Keffer; Mallory Caraway.

SB 313 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hamilton submitted the conference committee report on **SB 313**.

Representative Hamilton moved to adopt the conference committee report on **SB 313**.

The motion to adopt the conference committee report on **SB 313** prevailed by (Record 1650): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado;

Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Taylor.

Absent — Burnam; Ritter.

HB 2093 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Driver submitted the following conference committee report on **HB 2093**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2093** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hegar	Driver
Patrick	Hunter
Seliger	Isett
West	Chisum
Whitmire	Peña
On the part of the senate	On the part of the house

HB 2093, A bill to entitled An Act relating to persons certified as peace officers.

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

SECTION 1. Section 1701.404, Occupations Code, is amended to read as follows:

Sec. 1701.404. CERTIFICATION OF OFFICERS FOR MENTAL HEALTH ASSIGNMENTS. (a) The commission by rule may establish minimum requirements for the training, testing, and certification of special officers for offenders with mental impairments.

(b) The commission may certify a sheriff, sheriff's deputy, constable, ~~or~~ other peace officer, county jailer, or ~~a~~ justice of the peace~~;~~ as a special officer for offenders with mental impairments if the person ~~officer~~:

(1) completes a training course in emergency first aid and lifesaving techniques approved by the commission;

(2) completes a training course administered by the commission on mental health issues and offenders with mental impairments; and

(3) passes an examination administered by the commission that is designed to test the person's [officer's]:

(A) knowledge and recognition of the characteristics and symptoms of mental illness, mental retardation, and mental disabilities; and

(B) knowledge of mental health crisis intervention strategies for people with mental impairments.

(c) The commission may issue a professional achievement or proficiency certificate to an officer, county jailer, or justice of the peace who meets the requirements of Subsection (b).

SECTION 2. (a) The Commission on Law Enforcement Officer Standards and Education may certify a county jailer as a special officer for offenders with mental impairments and may issue a certificate to the county jailer if the county jailer meets the requirements of Section 1701.404(b), Occupations Code, as amended by this Act, regardless of whether the county jailer completed the required training and passed the examination before, on, or after the effective date of this Act.

(b) The Commission on Law Enforcement Officer Standards and Education may issue a certificate under Section 1701.404(c), Occupations Code, as amended by this Act, to a justice of the peace who is certified as a special officer for offenders with mental impairments regardless of whether the justice of the peace was certified before, on, or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2009.

Representative Driver moved to adopt the conference committee report on **HB 2093**.

The motion to adopt the conference committee report on **HB 2093** prevailed by (Record 1651): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Taylor.

Absent — Castro; Chavez; Davis, J.; King, T.

HB 2169 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Chavez submitted the following conference committee report on **HB 2169**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2169** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa
Shapiro
Watson

Chavez
Eissler
Morrison
Strama

On the part of the senate

On the part of the house

HB 2169, A bill to entitled An Act relating to the establishment of additional job incentive programs by the Texas Workforce Commission using the skills development fund.

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

SECTION 1. Section 303.003, Labor Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The commission by rule may establish and develop additional job incentive programs that use the skills development fund to create incentives for public community and technical colleges in partnership with one or more employers, including prospective employers who commit to establishing a place of business in this state, to provide workforce training in an effort to create and retain employment opportunities in this state. Under a program established under this subsection, the commission may commit money to a prospective employer described by this subsection contingent on the employer's establishment of a place of business in this state.

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, 2009.

Representative Chavez moved to adopt the conference committee report on **HB 2169**.

The motion to adopt the conference committee report on **HB 2169** prevailed by (Record 1652): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Taylor.

Absent — Marquez.

(Taylor now present)

HB 3872 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gattis submitted the following conference committee report on **HB 3872**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
 President of the Senate

The Honorable Joe Straus
 Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3872** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Estes
 Van de Putte
 Patrick

Gattis
 Vaught
 Sheffield
 Kleinschmidt

On the part of the senate

On the part of the house

HB 3872, A bill to entitled An Act relating to the qualifications to be a veterans county service officer.

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

SECTION 1. Section 434.033(b), Government Code, is amended to read as follows:

(b) To be appointed as an officer a person must:

(1) be qualified by education and training for the duties of the office;

(2) be experienced in the law, regulations, and rulings of the United States Department of Veterans Affairs controlling cases that come before the commission; and

(3) have the service experience specified by Subsection (c) or be:

(A) a widowed Gold Star Mother or unremarried widow of a serviceman or veteran whose death resulted from service; or

(B) the spouse of a disabled veteran who has a total disability rating based either on having a service-connected disability with a disability rating of 100 percent or on individual unemployability.

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, 2009.

Representative Gattis moved to adopt the conference committee report on **HB 3872**.

The motion to adopt the conference committee report on **HB 3872** prevailed by (Record 1653): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

HR 3060 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 3060**, suspending the limitations on the conferees for **HB 1831**.

HR 3054 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 3054**, suspending the limitations on the conferees for **HB 300**.

HR 3051 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 3051**, suspending the limitations on the conferees for **HB 1959**.

HB 3983 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rodriguez submitted the following conference committee report on **HB 3983**:

Austin, Texas, May 28, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3983** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Watson
Carona
Harris
Eltife
Shapleigh

Rodriguez
Maldonado
D. Howard
Harless

On the part of the senate

On the part of the house

HB 3983, A bill to entitled An Act relating to the imposition of property taxes on the residential homesteads of low-income and moderate-income persons.

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

SECTION 1. Section 373A.155(b), Local Government Code, is amended to read as follows:

(b) The county shall pay into the tax increment fund for the zone the same percentage of the tax increment produced by the county that ~~[an amount equal to the tax increment paid by]~~ the municipality pays into the fund ~~[as specified in the order adopted under Section 373A.1522].~~

SECTION 2. Section 373A.1522, Local Government Code, is amended to read as follows:

Sec. 373A.1522. EFFECTIVE DATE OF ZONE. The zone designated by the ordinance adopted under Section 373A.1521 takes effect on the date on which the county adopts a final order[-

~~(1)] agreeing to the creation of the zone, the zone boundaries, and the zone termination date specified by the municipality under Section 373A.1521(1)[- and~~

~~(2) specifying an amount of tax increment to be deposited by the county into the tax increment fund that is equal to the amount of the tax increment specified by the municipality under Section 373A.1521(3)].~~

SECTION 3. Subchapter D, Chapter 373A, Local Government Code, is amended by adding Section 373A.159 to read as follows:

Sec. 373A.159. COMPOSITION OF BOARD OF DIRECTORS OF HOMESTEAD PRESERVATION REINVESTMENT ZONES. (a) Notwithstanding Chapter 311, Tax Code, the board of directors of a homestead preservation reinvestment zone consists of at least 6 and not more than 16 members, unless more than 16 members are required to satisfy the requirements of this section.

(b) The municipality and county approving the payment of all or part of the tax increment into the tax increment fund each may appoint an equal number of members to the board.

(c) Members of the board are appointed for terms of two years unless longer terms are provided under Section 11, Article XI, Texas Constitution. Terms of members may be staggered.

(d) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(e) To be eligible for appointment to the board, an individual must:

(1) be a qualified voter of the county; or

(2) be at least 18 years of age and own real property in the reinvestment zone or be an employee or agent of a person that owns real property in the zone.

(f) Each year the board of directors of a reinvestment zone shall elect one of its members to serve as presiding officer for a term of one year. The board of directors may elect an assistant presiding officer to preside in the absence of the presiding officer or when there is a vacancy in the office of presiding officer. The board may elect other officers as it considers appropriate.

(g) A member of the board of directors of a homestead preservation reinvestment zone:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be appointed to serve concurrently on the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

(h) The board of directors created in this section has the powers and duties prescribed by Sections 311.010 and 311.011, Tax Code.

SECTION 4. (a) In this section, "circuit breaker program" means a program that limits the amount of ad valorem taxes that may be imposed on a residence homestead based on the owner's annual income.

(b) The comptroller shall conduct a study to examine circuit breaker programs as a means of expanding and protecting the homestead interests of low-income and moderate-income families.

(c) The limitations set out in Section 373A.003, Local Government Code, do not apply to this section.

(d) Before collecting information for purposes of the study, the comptroller shall establish an advisory committee to assist the comptroller in conducting the study. The advisory committee must be composed of representatives of:

- (1) school districts and other taxing units;
- (2) home builders;
- (3) real estate agents;
- (4) mortgage lenders;
- (5) financial agencies involved in mortgage markets;
- (6) organizations interested in housing for low-income and moderate-income households;
- (7) organizations interested in the effect of ad valorem taxes on low-income and moderate-income households;
- (8) organizations interested in the effect of public policy on low-income and moderate-income households; and
- (9) other appropriate, interested organizations or members of the public, as determined by the comptroller.

(e) The comptroller, with the assistance of the advisory committee, shall study:

- (1) methods to implement a circuit breaker program, including the use of rebates or tax credits;
- (2) methods to create a simple, transparent process for the owner of a residence homestead to apply for and receive a limitation on the amount of ad valorem taxes that may be imposed on the homestead under a circuit breaker program;
- (3) the effects of different designs of a circuit breaker program, including the effect of:
 - (A) limiting which taxing units are involved;
 - (B) basing eligibility on a maximum annual income level;
 - (C) limiting the dollar amount of the benefit that a property owner could receive in the program; and
 - (D) basing eligibility on a minimum ratio of residence homestead ad valorem taxes imposed to annual income, including a progressive scale of minimum ratios based on annual income; and
- (4) methods to ensure the reliability of a property owner's statement of annual income.

(f) The comptroller and the advisory committee shall analyze the information studied and prepare a report that:

(1) describes the parameters, techniques, and legal assumptions established under Subsection (e) of this section that were used in conducting the study;

(2) estimates the benefit of alternative designs of a circuit breaker program for property owners in various annual income brackets and with varying amounts of residence homestead ad valorem tax liability, including an estimate of the percentage of property owners in various annual income brackets that would benefit and the dollar amount of the benefit to those property owners;

(3) estimates the cost to the state and taxing units of implementing alternative designs of a circuit breaker program, including the percentage by which the amount of ad valorem taxes collected would be reduced;

(4) analyzes the effects on this state's economy of implementing a circuit breaker program, including the effect on home ownership rates, the residential housing market, and economic development; and

(5) specifies any necessary statutory changes the comptroller and the advisory committee determine are necessary to implement a circuit breaker program described by the study.

(g) The comptroller may contract with appraisal districts, taxing units, or other appropriate organizations for assistance and to obtain information necessary to conduct the study. A state agency, appraisal district, or taxing unit shall assist the comptroller if the comptroller requests information or assistance in conducting the study.

(h) Not later than December 1, 2010, the comptroller shall submit to the governor, lieutenant governor, and speaker of the house of representatives the report prepared under Subsection (f) of this section.

(i) This section expires September 1, 2011.

SECTION 5. This Act takes effect September 1, 2009.

Representative Rodriguez moved to adopt the conference committee report on **HB 3983**.

The motion to adopt the conference committee report on **HB 3983** prevailed by (Record 1654): 125 Yeas, 21 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycok; Berman; Bohac; Bolton; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter;

Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Bonnen; Branch; Brown, B.; Brown, F.; Christian; Crabb; Fletcher; Flynn; Gattis; Hartnett; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Phillips; Riddle; Sheffield; Truitt; Weber; Woolley.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Corte.

STATEMENTS OF VOTE

When Record No. 1654 was taken, I was in the house but away from my desk. I would have voted no.

Corte

I was shown voting yes on Record No. 1654. I intended to vote no.

Harper-Brown

I was shown voting yes on Record No. 1654. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1654. I intended to vote no.

C. Howard

I was shown voting yes on Record No. 1654. I intended to vote no.

Hughes

I was shown voting yes on Record No. 1654. I intended to vote no.

P. King

I was shown voting yes on Record No. 1654. I intended to vote no.

Morrison

I was shown voting yes on Record No. 1654. I intended to vote no.

Paxton

I was shown voting yes on Record No. 1654. I intended to vote no.

W. Smith

HB 4424 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hernandez submitted the following conference committee report on **HB 4424**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4424** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Gallegos
Uresti
Harris
Wentworth
Hinojosa

On the part of the senate

Hernandez
Lucio
Martinez
Hughes
Creighton

On the part of the house

HB 4424, A bill to entitled An Act relating to operations fees and child support service fees assessed by domestic relations offices.

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

SECTION 1. Section 110.006, Family Code, is amended to read as follows:

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

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

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

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

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

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

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

SECTION 2. Section 203.005(a), Family Code, is amended to read as follows:

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

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

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

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

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

- (5) a monthly service fee not to exceed \$3 to be paid annually in advance by a managing conservator and possessory conservator for whom the domestic relations office provides child support services;
- (6) community supervision fees as provided by Chapter 157 if community supervision officers are employed by the domestic relations office;
- (7) a reasonable fee for preparation of a court-ordered social study;
- (8) in a county that provides visitation services under Sections 153.014 and 203.004 a reasonable fee to be paid to the domestic relations office at the time the visitation services are provided;
- (9) a fee to reimburse the domestic relations office for a fee required to be paid under Section 158.503(d) for filing an administrative writ of withholding;
- (10) a reasonable fee for parenting coordinator services; and
- (11) a reasonable fee for alternative dispute resolution services.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Hernandez moved to adopt the conference committee report on **HB 4424**.

The motion to adopt the conference committee report on **HB 4424** prevailed by (Record 1655): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Dukes; Rose; Villarreal.

HB 4583 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the following conference committee report on **HB 4583**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4583** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ogden	Pitts
Duncan	Edwards
Hinojosa	Hochberg
Whitmire	Morrison
Eltife	Otto
On the part of the senate	On the part of the house

HB 4583, A bill to be entitled An Act relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

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

SECTION 1. DEFINITION. In any provision of this Act that does not amend current law, "state agency" means an office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of this state. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Except as otherwise specifically provided by this Act, all funds and accounts created or re-created in the state treasury by an Act of the 81st Legislature, Regular Session, 2009, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of the 81st Legislature, Regular Session, 2009, that becomes law are abolished on the later of August 31, 2009, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS. Section 2 of this Act does not apply to:

(1) statutory dedications, funds, and accounts that were enacted before the 81st Legislature convened to comply with requirements of state constitutional or federal law;

(2) dedications, funds, or accounts that remained exempt from former Section 403.094(h), Government Code, at the time dedications, accounts, and funds were abolished under that provision;

(3) increases in fees or in other revenue dedicated as described by this section; or

(4) increases in fees or in other revenue required to be deposited in a fund or account described by this section.

SECTION 4. ACCOUNTS IN GENERAL REVENUE FUND. Effective on the later of August 31, 2009, or the date the Act creating or re-creating the account takes effect, the following accounts and the revenue deposited to the credit of the accounts are exempt from Section 2 of this Act and are created in the general revenue fund, if created or re-created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law:

(1) the Texas physician health program account created as a special account in the general revenue fund by **SB 1331** or similar legislation;

(2) the Jobs and Education for Texans (JET) fund to be created as a dedicated account in the general revenue fund under **SB 1313**, **HB 1935**, or similar legislation;

(3) the Texas local participation transportation fund created as a dedicated account in the general revenue fund by **SB 1383**, **HB 3917**, or similar legislation;

(4) the honesty-in-premium account created in the general revenue fund by **HB 2750**, **SB 1257**, or similar legislation;

(5) the renewing our communities account created by **HB 492** or similar legislation;

(6) the pretrial victim-offender mediation program account created in the general revenue fund by **HB 2139** or similar legislation;

(7) the fuel ethanol, renewable methane, and biodiesel production account created in the general revenue fund by **HB 2318** or similar legislation;

(8) the Texas nursery and floral account created by **HB 3496** or similar legislation; and

(9) the Texas Rural Investment Fund account created in the general revenue fund by **HB 1911**, **HB 3236**, **SB 1016**, **SB 1988**, or similar legislation.

SECTION 5. REVENUE DEDICATION. Effective on the later of August 31, 2009, or the date the Act dedicating or rededicating the revenue takes effect, the following dedications or rededications of revenue collected by a state agency for a particular purpose are exempt from Section 2 of this Act, if dedicated or rededicated by an Act of the 81st Legislature, Regular Session, 2009, that becomes law:

(1) all dedications or rededications of revenue to the Texas Department of Insurance operating account by any Act, including the dedication of fees by **SB 1007** or similar legislation and the dedication of fees by **HB 4341** or similar legislation;

(2) the dedication of fee revenue by **SB 1414** or similar legislation;

(3) the dedication of assessments and penalties by **HB 77**, **SB 638**, or similar legislation;

- (4) the dedication of revenue by **HB 4110**, **SB 2208**, or similar legislation;
- (5) the dedication of proceeds by **HB 4427**, **SB 1774**, or similar legislation;
- (6) the dedication of lottery proceeds by **SB 421**, **SB 1655**, **HB 1299**, **HB 4390**, **SB 1940**, or similar legislation;
- (7) the dedication or rededication of fees by **SB 1013**, **HB 2081**, or similar legislation;
- (8) the dedication of court costs by **SB 333** or similar legislation;
- (9) the dedication of tax revenue by **HB 982**, **SB 2187**, or similar legislation;
- (10) the dedication of revenue by **HB 1684** or similar legislation;
- (11) the dedication of revenue by **HB 1965** or similar legislation;
- (12) the dedication of revenue by **HB 2259** or similar legislation;
- (13) the dedication of fee revenue by **SB 1587**, **HB 3359**, or similar legislation;
- (14) the dedication or rededication of revenue by **SB 1844** or similar legislation; and
- (15) the dedication or rededication of revenue by **SB 862**.

SECTION 6. FEDERAL FUNDS. Section 2 of this Act does not apply to funds created pursuant to an Act of the 81st Legislature, Regular Session, 2009, for which separate accounting is required by federal law, except that the funds shall be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 7. TRUST FUNDS. (a) Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 81st Legislature, Regular Session, 2009, except that the trust funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

(b) Section 2 of this Act does not apply to:

- (1) the state-licensed residential mortgage loan originator recovery fund created by **HB 10** or similar legislation, or to dedicated revenue deposited to that fund;
- (2) the anthropogenic carbon dioxide storage trust fund created as a special fund in the state treasury by **HB 2669**, **SB 1387**, or similar legislation, or to dedicated revenue deposited to that fund; or
- (3) the consumer assistance account created as a restitution account in the attorney general's departmental suspense account in the state treasury by **SB 2350** or similar legislation, or to revenue deposited to that account.

(c) Notwithstanding Subsection (a) of this section, Section 2 of this Act applies to the system benefit fund and to revenue deposited to the credit of that fund if that fund is purported to be re-created by **HB 1182** or similar legislation as a trust fund.

SECTION 8. BOND FUNDS. Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 81st Legislature, Regular Session, 2009, except that the funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 9. CONSTITUTIONAL FUNDS. (a) Section 2 of this Act does not apply to funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters.

(b) Section 2 of this Act does not apply to the national research university fund or any revenue transferred or deposited to or dedicated to that fund under **HB 51**, **HB 4453**, **SB 1560**, or similar legislation that becomes law.

SECTION 10. SEPARATE FUNDS IN THE TREASURY. Effective September 1, 2009, the following funds in the state treasury and the revenue deposited to the credit of the funds are exempt from Section 2 of this Act and the funds are created as separate funds in the state treasury, if created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law:

(1) the floodplain management fund created as a special fund in the state treasury outside the general revenue fund by **HB 2536** or similar legislation;

(2) the account created by **SB 263** or similar legislation for the deposit of proceeds from the sale of the bonds to be used for the sole purpose of financing projects authorized by Section 222.104, Transportation Code, except that, notwithstanding that legislation the fund is created as a separate fund outside of the general revenue fund; and

(3) the freestanding emergency medical care facility licensing fund created by **HB 1357** or similar legislation.

SECTION 11. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE. Effective September 1, 2009, Sections 403.095(b), (d), and (e), Government Code, are amended to read as follows:

(b) Notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that, on August 31, 2011 [~~2009~~], are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 81st [~~80th~~] Legislature are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121.

(d) Following certification of the General Appropriations Act and other appropriations measures enacted by the 81st [~~80th~~] Legislature, the comptroller shall reduce each dedicated account as directed by the legislature by an amount that may not exceed the amount by which estimated revenues and unobligated balances exceed appropriations. The reductions may be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. The

legislature may authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. This subsection does not apply to revenues or balances in:

- (1) funds outside the treasury;
- (2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;
- (3) funds created by the constitution or a court; or
- (4) funds for which separate accounting is required by federal law.

(e) This section expires on September 1, 2011 [~~2009~~].

SECTION 12. CERTAIN REVENUES DEDICATED TO COMPENSATION TO VICTIMS OF CRIME FUND. (a) Section 495.025(c), Government Code, as added by Section 1, Chapter 100 (**SB 1580**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted to read as follows:

(c) The department shall transfer 50 percent of all commissions paid to the department by a vendor under this section to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure, and the other 50 percent to the credit of the undedicated portion of the general revenue fund, except that the department shall transfer the first \$10 million of the commissions collected in any given year under a contract awarded under this section to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure. This section does not reduce any appropriation to the department.

(b) Revenue dedicated to the compensation to victims of crime fund by Section 495.025(c), Government Code, as added by Section 1, Chapter 100 (**SB 1580**), Acts of the 80th Legislature, Regular Session, 2007, is rededicated to that fund by this section and that rededication is exempt from Section 2 of this Act.

SECTION 13. PHYSICIAN EDUCATION LOAN REPAYMENT PROGRAM. (a) Section 2 of this Act does not apply to the physician education loan repayment program account created as an account in the general revenue fund by **HB 2154** or similar legislation or to dedicated revenue deposited to that account.

(b) Notwithstanding provisions of **HB 2154** or other law to the contrary, of dedicated revenue directed by Sections 61.539 and 61.5391, Education Code, Section 155.2415, Tax Code, or other law to be deposited to the physician education loan repayment program account described by Subsection (a) of this section:

- (1) during the state fiscal year ending August 31, 2010:
 - (A) 15 percent of the amount of that revenue described by those provisions shall be deposited to the credit of the physician education loan repayment program account; and
 - (B) the remainder of that revenue shall be deposited to the credit of the undedicated portion of the general revenue fund;
- (2) from September 1, 2010, to August 29, 2011:

(A) 25 percent of the amount of that revenue described by those provisions shall be deposited to the credit of the physician education loan repayment program account; and

(B) the remainder of that revenue shall be deposited to the credit of the undedicated portion of the general revenue fund; and

(3) on and after August 30, 2011:

(A) 50 percent of the amount of that revenue described by those provisions shall be deposited to the credit of the physician education loan repayment program account; and

(B) the remainder of that revenue shall be deposited to the credit of the undedicated portion of the general revenue fund.

SECTION 14. CERTAIN OTHER FUNDS HELD OUTSIDE THE TREASURY. Each of the following funds, if created as a fund held outside the treasury by an Act of the 81st Legislature, Regular Session, 2009, that becomes law, and revenue deposited to the credit of the funds are exempt from this Act:

(1) the Texas transportation revolving fund or any similar revolving fund created by or under **SB 1350, SB 505, SB 263**, or similar legislation; and

(2) the neighborhood and community recovery fund created by **SB 11, HB 4310**, or similar legislation.

SECTION 15. SPECIAL FUND FOR SPECIAL RANGERS. Section 2 of this Act does not apply to the special fund established for special rangers under **HB 2062, SB 1683**, or similar legislation of the 81st Legislature, Regular Session, 2009, that becomes law, or to proceeds transferred to the fund.

SECTION 16. CHRIS KYKER ENDOWMENT FOR SENIORS FUND. Section 2 of this Act does not apply to the Chris Kyker Endowment for Seniors Fund created as a special fund outside the state treasury by **HB 610, SB 1230**, or similar legislation of the 81st Legislature, Regular Session, 2009, that becomes law, or to revenue deposited to the fund.

SECTION 17. TRUST FUND TO BECOME DEDICATED GENERAL REVENUE ACCOUNT. Sections 2 and 7 of this Act do not apply to the scholarship trust fund or to revenue deposited to the credit of that fund. However, if that fund is purported to be created or re-created by **HB 2440** or similar legislation as a trust fund, the scholarship trust fund is instead created as a dedicated account in the general revenue fund.

SECTION 18. COMPTROLLER'S ESTIMATE OF CERTAIN DEDICATED ACCOUNT BALANCES. The comptroller of public accounts shall, in the comptroller's statement under Section 49-a, Article III, Texas Constitution, to the 82nd Legislature on its convening, include an estimate of general revenue dedicated account balances based on the laws then in effect, separately identifying those account balances available for certification.

SECTION 19. HEALTHY TEXAS SMALL EMPLOYER PREMIUM STABILIZATION FUND. Sections 2 and 7 of this Act do not apply to the healthy Texas small employer premium stabilization fund created by **SB 6** or similar legislation, or to dedicated revenue deposited to that account.

SECTION 20. AMERICAN RECOVERY AND REINVESTMENT ACT FUND. (a) Section 2 of this Act does not apply to the American Recovery and Reinvestment Act fund created by Subsection (b) of this section, or to revenue deposited to the fund.

(b) Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.0122 to read as follows:

Sec. 403.0122. DEPOSIT OF AMERICAN RECOVERY AND REINVESTMENT ACT MONEY. (a) In this section:

(1) "Fund" means the American Recovery and Reinvestment Act fund.

(2) "Recovery act" means the federal American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

(b) The American Recovery and Reinvestment Act fund is created as a special fund in the state treasury outside the general revenue fund.

(c) Notwithstanding any other law of this state and except as otherwise provided by federal law, state agencies that receive money under the recovery act shall deposit the money to the credit of the fund as the comptroller determines is necessary to hold and account for money received under the recovery act.

(d) Other money may be deposited to the credit of the fund as appropriated by the legislature, as required by federal law, or as necessary to account for money related to the recovery act. Money deposited to the credit of the fund may only be used for the purposes identified in the recovery act to stimulate the economy, including aid for unemployment, welfare, education, health, and infrastructure.

(e) Agencies shall transfer amounts between the fund and other accounts and funds in the treasury as necessary to properly account for money received under the recovery act as directed by the comptroller. This section does not affect the authority of the comptroller to establish and use accounts necessary to manage and account for revenues and expenditures.

(f) Interest earned on money deposited to the credit of the fund is exempt from Section 404.071. Interest earned on money in the fund shall be retained in the fund.

(g) The comptroller may issue guidelines for state agencies regarding the implementation of this section.

SECTION 21. LICENSE PLATES. Sections 2 and 7 of this Act do not apply to the dedication or rededication of specialty license plate revenue or to an account or fund created or re-created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law involving a specialty license plate.

SECTION 22. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT. (a) On the effective date of this Act, the large county and municipality recreation and parks account, established by Section 39, Chapter 1159 (**HB 12**), Acts of the 80th Legislature, Regular Session, 2007, is re-created by this section as an account in the general revenue fund.

(b) The large county and municipality recreation and parks account and the revenue deposited to the credit of the account are exempt from Section 2 of this Act.

SECTION 23. EFFECT OF ACT. (a) This Act prevails over any other Act of the 81st Legislature, Regular Session, 2009, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account in the state treasury or to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code.

(b) Revenue that, under the terms of another Act of the 81st Legislature, Regular Session, 2009, would be deposited to the credit of a special account or fund shall be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under this Act.

SECTION 24. EFFECTIVE DATE. 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 on the 91st day after the last day of the legislative session.

Representative Pitts moved to adopt the conference committee report on **HB 4583**.

The motion to adopt the conference committee report on **HB 4583** prevailed by (Record 1656): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Callegari; Flores; McClendon.

SB 537 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Vaught submitted the conference committee report on **SB 537**.

Representative Vaught moved to adopt the conference committee report on **SB 537**.

The motion to adopt the conference committee report on **SB 537** prevailed by (Record 1657): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Edwards; Giddings; Patrick.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

SB 968 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Truitt submitted the conference committee report on **SB 968**.

Representative Truitt moved to adopt the conference committee report on **SB 968**.

The motion to adopt the conference committee report on **SB 968** prevailed by (Record 1658): 124 Yeas, 21 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Cohen; Coleman; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter;

Isett; Jones; Keffer; Kent; King, P.; King, S.; Kolkhorst; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley.

Nays — Aycock; Berman; Bonnen; Christian; Cook; Craddick; Creighton; Flynn; Gattis; Jackson; Kleinschmidt; Laubenberg; Legler; Lewis; Madden; Parker; Phillips; Pitts; Sheffield; Weber; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Farrar; King, T.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1658. I intended to vote no.

Callegari

HB 498 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McClendon submitted the following conference committee report on **HB 498**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 498** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis
Carona
Whitmire

McClendon
Thompson
Hodge
Pierson
Moody

On the part of the senate

On the part of the house

HB 498, A bill to be entitled An Act relating to the establishment of an advisory panel to assist with a study regarding the prevention of wrongful convictions.

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

SECTION 1. (a) The Timothy Cole advisory panel on wrongful convictions is established to assist the Task Force on Indigent Defense established under Subchapter D, Chapter 71, Government Code, in conducting a study and preparing a report regarding the prevention of wrongful convictions as provided by this section.

(b) The advisory panel is composed of the following members:

- (1) the director of the Task Force on Indigent Defense;
- (2) the chair of the criminal justice committee of the senate or a member of the senate designated by the chair;
- (3) the chair of the jurisprudence committee of the senate or a member of the senate designated by the chair;
- (4) the chair of the criminal jurisprudence committee of the house of representatives or a member of the house of representatives designated by the chair;
- (5) the chair of the corrections committee of the house of representatives or a member of the house of representatives designated by the chair;
- (6) the executive director of the Texas Criminal Defense Lawyers Association or a representative designated by the executive director;
- (7) the president of the Texas District and County Attorneys Association or a representative designated by the president;
- (8) the presiding judge of the court of criminal appeals or a representative who is designated by the presiding judge and who is a judge of the court of criminal appeals;
- (9) one representative of a public law school in this state, chosen by the deans of the public law schools in this state; and
- (10) one employee of the office of the governor, appointed by the governor.

(c) The director of the Task Force on Indigent Defense is the presiding officer of the advisory panel. The advisory panel shall meet at the call of the presiding officer but not less than three times in person and as needed by telephone conference call.

(d) The Task Force on Indigent Defense, with the advice and assistance of the advisory panel, shall conduct a study regarding:

- (1) the causes of wrongful convictions;
- (2) procedures and programs that may be implemented to prevent future wrongful convictions;
- (3) the effects of state law on wrongful convictions, as determined based on state statutes regarding eyewitness identification procedures, the recording of custodial interrogations, postconviction DNA testing, and writs of habeas corpus based on relevant scientific evidence; and
- (4) whether the creation of an innocence commission to investigate wrongful convictions would be appropriate.

(e) The Task Force on Indigent Defense may request that an entity in the legislative, judicial, or executive branch of state government or a political subdivision provide to the advisory panel information related to the advisory

panel's duties under this section. On the request of the Task Force on Indigent Defense under this subsection, an entity may provide information to the advisory panel unless the entity is otherwise prohibited from disclosing the information.

(f) Not later than January 1, 2011, the Task Force on Indigent Defense shall prepare a report regarding the results of the study conducted under this section and submit the report, after consulting with the advisory panel, to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with a representative serving on the advisory panel.

(g) This section expires January 1, 2011.

SECTION 2. This Act takes effect September 1, 2009.

Representative McClendon moved to adopt the conference committee report on **HB 498**.

The motion to adopt the conference committee report on **HB 498** prevailed by (Record 1659): 89 Yeas, 56 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Burnam; Castro; Chavez; Chisum(C); Cohen; Coleman; Corte; Crownover; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Keffer; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Patrick; Peña; Pickett; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Christian; Cook; Crabb; Craddick; Creighton; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Howard, C.; Hunter; Jackson; Jones; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Madden; Miller, D.; Miller, S.; Morrison; Orr; Otto; Parker; Paxton; Phillips; Pitts; Riddle; Sheffield; Shelton; Smith, W.; Swinford; Taylor; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Isett; Pierson.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1659. I intended to vote no.

Crownover

HR 2947 - ADOPTED
(by Truitt)

The following privileged resolution was laid before the house:

HR 2947

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 3347** (plan qualification provisions for and certain supplemental payments and health insurance deductions under the Teacher Retirement System of Texas) to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following new SECTION 5 to the bill:

SECTION 5. (a) The Teacher Retirement System of Texas shall make a one-time supplemental payment of a retirement or death benefit as provided by this section.

(b) The supplemental payment is payable to each eligible annuitant not later than January 2010 and, to the extent practicable, on a date or dates that coincide with the regular annuity payment payable to each eligible annuitant.

(c) The amount of the supplemental payment is equal to the lesser of:

- (1) the gross amount of the regular annuity payment to which the eligible annuitant is otherwise entitled for the month of December 2009; or
- (2) \$500.

(d) The supplemental payment is payable without regard to any forfeiture of benefits under Section 824.601, Government Code. The Teacher Retirement System of Texas shall make applicable tax withholding and other legally required deductions before disbursing the supplemental payment. A supplemental payment under this section is in addition to and not in lieu of the regular monthly annuity payment to which the eligible annuitant is otherwise entitled.

(e) Subject to Subsection (f) of this section, to be eligible for the supplemental payment, a person must be, for the month of December 2009, and disregarding any forfeiture of benefits under Section 824.601, Government Code, an annuitant eligible to receive:

- (1) a standard retirement annuity payment;
- (2) an optional retirement annuity payment as either a retiree or beneficiary;
- (3) a life annuity payment under Section 824.402(a)(4), Government Code;
- (4) an annuity for a guaranteed period of 60 months under Section 824.402(a)(3), Government Code; or
- (5) an alternate payee annuity payment under Section 804.005, Government Code.

(f) If the annuitant is a retiree or if the annuitant is a beneficiary of a retiree who selected an optional retirement payment plan, to be eligible for the supplemental payment, the effective date of the retirement of the member of the

Teacher Retirement System of Texas must have been on or before December 31, 2008. If the annuitant is a beneficiary under Section 824.402(a)(3) or (4), Government Code, to be eligible for the supplemental payment, the date of death of the member of the retirement system must have been on or before December 31, 2008. The supplemental payment shall be made to an alternate payee who is an annuitant under Section 804.005, Government Code, only if the annuity payment to the alternate payee commenced on or before December 31, 2008. The supplemental payment is in addition to the guaranteed number of payments under Section 824.402(a)(3), Government Code, Section 824.204(c)(3) or (4), Government Code, or Section 824.308(c)(3) or (4), Government Code, and may not be counted as one of the guaranteed monthly payments.

(g) The supplemental payment does not apply to payments under:

(1) Section 824.304(a), Government Code, relating to disability retirees with less than 10 years of service credit;

(2) Section 824.804(b), Government Code, relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts;

(3) Section 824.501(a), Government Code, relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or

(4) Section 824.404(a), Government Code, relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute.

(h) Except as provided by this section, the board of trustees of the Teacher Retirement System of Texas shall determine the eligibility for and the amount and timing of a supplemental payment and the manner in which the payment is made.

(i) The supplemental payment is contingent on sufficient funds being appropriated from general revenue to the Teacher Retirement System of Texas for this purpose and may not be paid from trust funds.

Explanation: This addition is necessary to provide a supplemental payment to eligible retirees and beneficiaries who receive payments from the Teacher Retirement System of Texas.

HR 2947 was adopted by (Record 1660): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.;

Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Parker.

HB 3347 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Truitt submitted the following conference committee report on **HB 3347**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3347** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Duncan
Van de Putte
West
Williams

Truitt
Otto
McClendon
Pitts
Eiland

On the part of the senate

On the part of the house

HB 3347, A bill to be entitled An Act relating to plan qualification provisions for and certain supplemental payments and health insurance deductions under the Teacher Retirement System of Texas.

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

SECTION 1. Section 822.201, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) amounts by which the member's salary is reduced under a salary reduction agreement authorized by Chapter 610;

(3) amounts that would otherwise qualify as salary and wages under Subdivision (1) but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments

to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986, if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans;

(4) performance pay awarded to an employee by a school district as part of a total compensation plan approved by the board of trustees of the district and meeting the requirements of Subsection (e);

(5) the benefit replacement pay a person earns under Subchapter H, Chapter 659, except as provided by Subsection (c);

(6) stipends paid to teachers in accordance with Section 21.410, 21.411, 21.412, or 21.413, Education Code;

(7) amounts by which the member's salary is reduced or that are deducted from the member's salary as authorized by Subchapter J, Chapter 659;

(8) a merit salary increase made under Section 51.962, Education Code;

(9) amounts received under the relevant parts of the awards for student achievement program under Subchapter N, Chapter 21, Education Code, the educator excellence awards program under Subchapter O, Chapter 21, Education Code, or a mentoring program under Section 21.458, Education Code, that authorized compensation for service; ~~and~~

(10) salary amounts designated as health care supplementation by an employee under Subchapter D, Chapter 22, Education Code; and

(11) to the extent required by Sections 3401(h) and 414(u)(2), Internal Revenue Code of 1986, differential wage payments received by an individual from an employer on or after January 1, 2009, while the individual is performing qualified military service as defined by Section 414(u), Internal Revenue Code of 1986.

(b-1) An individual receiving wages to which Subsection (b)(11) applies is considered employed by the employer for purposes of this section, and the differential wage payment is considered earned compensation. The retirement system shall determine how contributions attributable to differential wage payments are made.

SECTION 2. Subchapter A, Chapter 824, Government Code, is amended by adding Section 824.007 to read as follows:

Sec. 824.007. DEDUCTIONS FROM SERVICE OR DISABILITY RETIREMENT ANNUITY. (a) In this section, "program administrator" means the person who administers the uniform program under Section 1601.102, Insurance Code.

(b) An individual eligible to participate in the uniform program under Section 1601.102, Insurance Code, may authorize the retirement system to deduct the amount of the contribution and any other qualified health insurance premium from the individual's regular monthly service or disability retirement annuity payment if the individual is:

(1) eligible to receive a monthly annuity from the retirement system greater than the amount of the authorized deduction; and

(2) eligible under Section 402(l), Internal Revenue Code of 1986, or a similar law, to elect to exclude from annual gross income up to \$3,000 of distributions from an eligible retirement plan used for qualified health insurance premiums.

(c) An individual may authorize the deduction described by Subsection (b) on a form provided by the program administrator. The program administrator shall coordinate the implementation of an authorization under Subsection (b) with the retirement system.

(d) After making the deductions, the retirement system shall pay to the program administrator an aggregate amount for all individuals who authorize annuity deductions under Subsection (b).

(e) If an individual no longer receives a monthly annuity greater than the amount of the authorized deduction, the retirement system:

(1) shall inform the program administrator; and

(2) is not required to make any deduction under this section for the individual.

(f) The retirement system is not required to accept an authorization for a deduction under this section if payment of qualified health insurance premiums by deduction from a retirement plan annuity is not required for an eligible retiree to elect the gross income exclusion described by Subsection (b)(2).

SECTION 3. Section 824.403, Government Code, is amended to read as follows:

Sec. 824.403. BENEFITS ON DEATH OF INACTIVE MEMBER. (a) Except as provided by Section 824.401, the designated beneficiary of a member who dies while absent from service is eligible to receive:

(1) the same benefits payable under Section 824.402 or 824.404 if the member's absence from service was:

(A) because of sickness, accident, or other cause the board of trustees determines involuntary;

(B) in furtherance of the objectives or welfare of the public school system; or

(C) during a time when the member was eligible to retire or would become eligible without further service before the fifth anniversary of the member's last day of service as a member; or

(2) an amount equal to the accumulated contributions in the member's individual account in the member savings account, if the member's absence from service does not satisfy a requirement of Subdivision (1).

(b) To the extent required by Section 401(a)(37), Internal Revenue Code of 1986, the designated beneficiary of a member who died on or after January 1, 2007, while the member was performing qualified military service as defined by Section 414(u), Internal Revenue Code of 1986, is eligible to receive additional benefits to the same extent as if the member had resumed employment and been employed at the time of death.

SECTION 4. Section 825.509, Government Code, is amended by adding Subsections (b-1), (e), and (f) and amending Subsections (c) and (d) to read as follows:

(b-1) Notwithstanding Subsection (b)(3), with respect to a distribution made on or after January 1, 2002, an otherwise eligible portion of a rollover distribution that consists of after-tax employee contributions not includable in gross income is an eligible rollover distribution for purposes of this section. The eligible portion may be transferred only:

(1) to an individual retirement account or annuity described by Section 408(a) or (b), Internal Revenue Code of 1986;

(2) to a qualified plan described by Section 403(a), Internal Revenue Code of 1986;

(3) for distributions occurring on or after January 1, 2007, to a qualified plan described by Section 401(a), Internal Revenue Code of 1986; or

(4) to an annuity contract described by Section 403(b), Internal Revenue Code of 1986, that agrees to separately account for amounts transferred and earnings on amounts transferred, including for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income.

(c) An eligible retirement plan under this section includes:

(1) ~~is~~ an individual retirement account described by Section 408(a), Internal Revenue Code of 1986;

(2) ~~is~~ an individual retirement annuity described by Section 408(b), Internal Revenue Code of 1986;

(3) ~~is~~ an annuity plan described by Section 403(a), Internal Revenue Code of 1986;

(4) ~~is or~~ a qualified trust described by Section 401(a), Internal Revenue Code of 1986, that accepts the distributee's eligible rollover distribution;

(5) with respect to a distribution made on or after January 1, 2002, a plan eligible under Section 457(b), Internal Revenue Code of 1986, that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred into the plan from the retirement system;

(6) with respect to a distribution made on or after January 1, 2002, an annuity contract described by Section 403(b), Internal Revenue Code of 1986; or

(7) with respect to a distribution made on or after January 1, 2008, a Roth IRA described by Section 408A, Internal Revenue Code of 1986. [However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan under this section is an individual retirement account or individual retirement annuity.]

(d) In this section:

(1) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by a distributee.

(2) "Distributee" means a person who receives an eligible rollover distribution from the retirement system and includes an employee or former employee and, regarding the interest of an employee or former employee, the person's surviving spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined by Section 414(p), Internal Revenue Code of 1986. With respect to a distribution made on or after January 1, 2007, a distributee includes a beneficiary who:

(A) is a designated beneficiary, as defined by Section 401(a)(9)(E), Internal Revenue Code of 1986, of an employee or former employee; and

(B) is not the spouse, surviving spouse, or alternate payee of an employee or former employee.

(e) A direct trustee-to-trustee transfer on behalf of a distributee beneficiary who is not a spouse is an eligible rollover distribution. A distributee beneficiary who is not a spouse may roll over the distribution only to an individual retirement account or individual retirement annuity that:

(1) is established for the purpose of receiving the distribution; and

(2) is considered an inherited account or annuity to which Section 401(a)(9)(B), Internal Revenue Code of 1986, applies, except for Section 401(a)(9)(B)(iv).

(f) To the extent provided by federal law, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust maintained for a designated beneficiary.

SECTION 5. (a) The Teacher Retirement System of Texas shall make a one-time supplemental payment of a retirement or death benefit as provided by this section.

(b) The supplemental payment is payable to each eligible annuitant not later than January 2010 and, to the extent practicable, on a date or dates that coincide with the regular annuity payment payable to each eligible annuitant.

(c) The amount of the supplemental payment is equal to the lesser of:

(1) the gross amount of the regular annuity payment to which the eligible annuitant is otherwise entitled for the month of December 2009; or

(2) \$500.

(d) The supplemental payment is payable without regard to any forfeiture of benefits under Section 824.601, Government Code. The Teacher Retirement System of Texas shall make applicable tax withholding and other legally required deductions before disbursing the supplemental payment. A supplemental payment under this section is in addition to and not in lieu of the regular monthly annuity payment to which the eligible annuitant is otherwise entitled.

(e) Subject to Subsection (f) of this section, to be eligible for the supplemental payment, a person must be, for the month of December 2009, and disregarding any forfeiture of benefits under Section 824.601, Government Code, an annuitant eligible to receive:

- (1) a standard retirement annuity payment;
- (2) an optional retirement annuity payment as either a retiree or beneficiary;
- (3) a life annuity payment under Section 824.402(a)(4), Government Code;
- (4) an annuity for a guaranteed period of 60 months under Section 824.402(a)(3), Government Code; or
- (5) an alternate payee annuity payment under Section 804.005, Government Code.

(f) If the annuitant is a retiree or if the annuitant is a beneficiary of a retiree who selected an optional retirement payment plan, to be eligible for the supplemental payment, the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before December 31, 2008. If the annuitant is a beneficiary under Section 824.402(a)(3) or (4), Government Code, to be eligible for the supplemental payment, the date of death of the member of the retirement system must have been on or before December 31, 2008. The supplemental payment shall be made to an alternate payee who is an annuitant under Section 804.005, Government Code, only if the annuity payment to the alternate payee commenced on or before December 31, 2008. The supplemental payment is in addition to the guaranteed number of payments under Section 824.402(a)(3), Government Code, Section 824.204(c)(3) or (4), Government Code, or Section 824.308(c)(3) or (4), Government Code, and may not be counted as one of the guaranteed monthly payments.

(g) The supplemental payment does not apply to payments under:

- (1) Section 824.304(a), Government Code, relating to disability retirees with less than 10 years of service credit;
- (2) Section 824.804(b), Government Code, relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts;
- (3) Section 824.501(a), Government Code, relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or
- (4) Section 824.404(a), Government Code, relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute.

(h) Except as provided by this section, the board of trustees of the Teacher Retirement System of Texas shall determine the eligibility for and the amount and timing of a supplemental payment and the manner in which the payment is made.

(i) The supplemental payment is contingent on sufficient funds being appropriated from general revenue to the Teacher Retirement System of Texas for this purpose and may not be paid from trust funds.

SECTION 6. This Act takes effect September 1, 2009.

Representative Truitt moved to adopt the conference committee report on **HB 3347**.

The motion to adopt the conference committee report on **HB 3347** prevailed by (Record 1661): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Howard, C.

Absent, Excused — Hancock; Kuempel.

Absent — Davis, Y.

HR 3062 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 3062**, suspending the limitations on the conferees for **HB 3646**.

HR 3061 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 3061**, suspending the limitations on the conferees for **HJR 14**.

HB 3389 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Harper-Brown submitted the following conference committee report on **HB 3389**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus

Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3389** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell
Carona
Hegar
West
Whitmire

Harper-Brown
Fletcher
P. King

On the part of the senate

On the part of the house

HB 3389, A bill to be entitled An Act elating to the continuation and functions of the Texas Commission on Law Enforcement Officer Standards and Education.

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

SECTION 1. Section 1701.002, Occupations Code, is amended to read as follows:

Sec. 1701.002. APPLICATION OF SUNSET ACT. The Commission on Law Enforcement Officer Standards and Education is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2021 [~~2009~~].

SECTION 2. Section 1701.053, Occupations Code, is amended to read as follows:

Sec. 1701.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[~~s~~] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person [An officer, employee, or paid consultant of a Texas trade association in the field of law enforcement] may not be a commission member and may not be an employee of the commission employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of law enforcement or county corrections; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of law enforcement or county corrections [who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].

(c) ~~[A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of law enforcement may not be a commission member and may not be an employee of the commission who is~~

~~exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.~~

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

SECTION 3. Section 1701.056(a), Occupations Code, is amended to read as follows:

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

(1) does not have at the time of taking office ~~[appointment]~~ the qualifications required by Section 1701.051(a) or 1701.052;

(2) does not maintain during service on the commission the qualifications required by Section 1701.051(a) or 1701.052;

(3) is ineligible for membership under ~~[violates a prohibition established by]~~ Section 1701.053;

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

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

SECTION 4. Section 1701.059, Occupations Code, is amended to read as follows:

Sec. 1701.059. TRAINING. (a) ~~A~~ [To be eligible to take office as a member of the commission, a] person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes ~~[must complete at least one course of]~~ a training program that complies with this section.

(b) The training program must ~~[shall]~~ provide the person with information ~~[to a member]~~ regarding:

(1) the legislation that created the commission;

(2) the programs, functions, rules, and budget of the commission ~~[this chapter]~~;

(3) ~~[(2)]~~ the results of the most recent formal audit of ~~[programs operated by]~~ the commission;

(4) ~~[(3)]~~ the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest ~~[role and functions of the commission]~~; and

~~[(4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;]~~

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

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

~~[(7) the requirements of Chapters 551, 552, and 2001, Government~~

Code;

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

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

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

SECTION 5. Section 1701.153(b), Occupations Code, is amended to read as follows:

(b) The commission shall furnish each agency and licensed training school with the required reporting forms, including access to electronic submission forms when the system under Section 1701.1523 is established.

SECTION 6. Sections 1701.157(b) and (c), Occupations Code, are amended to read as follows:

(b) To provide the necessary information for an allocation of money under Subsection (a), a [Not later than November 1 of each calendar year, each] local law enforcement agency must [shall] report to the comptroller not later than November 1 of the preceding calendar year:

(1) the number of agency positions described by Subsection (a)(2) authorized as of January 1 of the [that] year the report is due;

(2) the number of agency positions described by Subsection (a)(2) filled as of January 1 of the year the report is due;

(3) the percentage of the money received by the agency under Subsection (a) pursuant to the allocation made by the comptroller on or before March 1 of the year preceding the year in which the report is due that was used by the agency before the date of the allocation made by the comptroller under Subsection (a) on or before March 1 of the year the report is due;

(4) the number of training hours received during the 12-month or approximately 12-month period described by Subdivision (3) that were funded by money received by the agency pursuant to the allocation made by the comptroller on or before March 1 of the year preceding the year in which the report is due; and

(5) that the agency has complied with the requirements of this section regarding the use of any money received by the agency pursuant to the allocation made by the comptroller on or before March 1 of the year preceding the year in which the report is due.

(c) The head of a law enforcement agency shall maintain a complete and detailed ~~[written]~~ record of money received and spent by the agency under this section. Money received under this section is subject to audit by the comptroller. Money spent under this section is subject to audit by the state auditor.

SECTION 7. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Sections 1701.1521, 1701.1522, 1701.1523, 1701.1524, 1701.162, and 1701.163 to read as follows:

Sec. 1701.1521. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Sec. 1701.1522. ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

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

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

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

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

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

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

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

Sec. 1701.1523. ELECTRONIC SUBMISSION OF FORMS, DATA, AND DOCUMENTS. The commission by rule shall:

(1) develop and establish a system for the electronic submission of forms, data, and documents required to be submitted to the commission under this chapter; and

(2) once that system is established, require law enforcement agencies to submit to the commission electronically any form, data, or document required to be submitted to the commission under this chapter.

Sec. 1701.1524. RULES RELATING TO CONSEQUENCES OF CRIMINAL CONVICTION OR DEFERRED ADJUDICATION. (a) The commission by rule shall establish guidelines consistent with this chapter that are necessary to comply with Chapter 53 to the extent that chapter applies to persons licensed under this chapter.

(b) In its rules under this section, the commission shall list the offenses for which a conviction would constitute grounds for the commission to take action under Section 53.021 or for which placement on deferred adjudication community supervision would constitute grounds for the commission to take action under this chapter.

Sec. 1701.162. RECORDS AND AUDIT REQUIREMENTS. (a) The commission is entitled to access records maintained under Sections 1701.303, 1701.306, and 1701.310 by an agency hiring a person to be an officer or county jailer, including records that relate to age, education, physical standards, citizenship, experience, and other matters relating to competence and reliability, as evidence of qualification for licensing of an officer or county jailer.

(b) The commission shall audit the records described by Subsection (a) of each law enforcement agency at least once every five years.

(c) The commission by rule shall develop and establish a framework for the audits conducted by the commission under Subsection (b) that:

(1) addresses the types of documents subject to audit;

(2) provides a schedule for additional risk-based inspections based on:

(A) whether there has been a prior violation by the law enforcement agency;

(B) the inspection history of the agency; and

(C) any other factor the commission by rule considers appropriate;

(3) provides timelines for complying with an audit request or correcting a violation found during the audit process; and

(4) establishes sanctions for failing to comply with an audit request or to correct a violation found during the audit process.

Sec. 1701.163. INFORMATION PROVIDED BY COMMISSIONING ENTITIES. (a) This section applies only to an entity authorized by statute or by the constitution to create a law enforcement agency or police department and commission, appoint, or employ officers that first creates a law enforcement agency or police department and first begins to commission, appoint, or employ officers on or after September 1, 2009.

(b) The entity shall submit to the commission on creation of the law enforcement agency or police department information regarding:

(1) the need for the law enforcement agency or police department in the community;

(2) the funding sources for the law enforcement agency or police department;

(3) the physical resources available to officers;

(4) the physical facilities that the law enforcement agency or police department will operate, including descriptions of the evidence room, dispatch area, and public area;

(5) law enforcement policies of the law enforcement agency or police department, including policies on:

(A) use of force;

(B) vehicle pursuit;

(C) professional conduct of officers;

(D) domestic abuse protocols;

(E) response to missing persons;

(F) supervision of part-time officers; and

(G) impartial policing;

(6) the administrative structure of the law enforcement agency or police department;

(7) liability insurance; and

(8) any other information the commission requires by rule.

SECTION 8. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION 9. Section 1701.202, Occupations Code, is amended to read as follows:

Sec. 1701.202. COMPLAINTS. (a) The commission by rule shall establish a comprehensive procedure for each phase of the commission's jurisdictional complaint enforcement process, including:

- (1) complaint intake;
- (2) investigation;
- (3) adjudication and relevant hearings;
- (4) appeals;
- (5) the imposition of sanctions; and
- (6) public disclosure.

(b) On request, a license holder may obtain information regarding a complaint made against the license holder under this chapter, including a complete copy of the complaint file. On receipt of a request under this subsection, the commission shall provide the requested information in a timely manner to allow the license holder time to respond to the complaint.

(c) The commission shall ensure that detailed information regarding the commission's complaint enforcement process described by this section is available on any publicly accessible Internet website and in any appropriate printed materials maintained by the commission [provide the commission's policies and procedures relating to complaint investigation and resolution to a person filing a complaint and to each person that is the subject of the complaint].

SECTION 10. Section 1701.203, Occupations Code, is amended to read as follows:

Sec. 1701.203. RECORDS OF COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on jurisdictional complaints filed with the commission. The commission shall maintain [keep an] information [file] about parties to the complaint, [each written complaint filed with the commission that the commission has authority to resolve. The information file must include:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint.;
- (4) a record of each person contacted in relation to the complaint;

~~[(5)] a summary of the results of the review or investigation of the complaint, and its disposition[; and~~

~~[(6) an explanation of the reason that a complaint was closed without action by the commission].~~

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

~~(c) The commission[; at least quarterly and until final disposition of the complaint,] shall periodically notify the parties to the complaint of the status of the complaint until final disposition [unless the notice would jeopardize an undercover investigation].~~

SECTION 11. Subchapter E, Chapter 1701, Occupations Code, is amended by adding Section 1701.2035 to read as follows:

Sec. 1701.2035. TRACKING AND ANALYSIS OF COMPLAINT AND VIOLATION DATA. (a) The commission shall develop and implement a method for:

(1) tracking complaints filed with the commission through their final disposition, including:

(A) the reason for each complaint;

(B) how each complaint was resolved; and

(C) the subject matter of each complaint that was not within the jurisdiction of the commission and how the commission responded to the complaint; and

(2) tracking and categorizing the sources and types of complaints filed with the commission and of violations of this chapter or a rule adopted under this chapter.

(b) The commission shall analyze the complaint and violation data maintained under Subsection (a) to identify trends and areas that may require additional regulation or enforcement.

SECTION 12. Section 1701.253, Occupations Code, is amended by adding Subsection (k) to read as follows:

(k) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program for officers licensed under this chapter that covers the laws of this state and of the United States pertaining to peace officers.

SECTION 13. Section 1701.254, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) The commission by rule shall establish a system for placing a training provider on at-risk probationary status. The rules must prescribe:

(1) the criteria to be used by the commission in determining whether to place a training provider on at-risk probationary status;

(2) a procedure and timeline for imposing corrective conditions on a training provider placed on at-risk probationary status and for notifying the provider regarding those conditions; and

(3) a procedure for tracking a training provider's progress toward compliance with any corrective conditions imposed on the provider by the commission under this subsection.

SECTION 14. Section 1701.255(c), Occupations Code, is amended to read as follows:

(c) A person may not enroll in a peace officer training program under Section 1701.251(a) unless the person has received:

- (1) a high school diploma;
- (2) a high school equivalency certificate [~~and has completed at least 12 hours at an institution of higher education with at least a 2.0 grade point average on a 4.0 scale~~]; or
- (3) an honorable discharge from the armed forces of the United States after at least 24 months of active duty service.

SECTION 15. Section 1701.351, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) As part of the continuing education programs under Subsection (a), a peace officer must complete a training and education program that covers recent changes to the laws of this state and of the United States pertaining to peace officers.

SECTION 16. Section 1701.352, Occupations Code, is amended by amending Subsection (b) and adding Subsection (g) to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

- (1) topics selected by the agency; and
- (2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:
 - (A) civil rights, racial sensitivity, and cultural diversity; [~~and~~]
 - (B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; and
 - (C) unless determined by the agency head to be inconsistent with the officer's assigned duties:
 - (i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and
 - (ii) issues concerning sex offender characteristics.

(g) The training and education program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments under Subsection (b)(2)(B) may not be provided as an online course. The commission shall:

- (1) determine best practices for interacting with persons with mental impairments, in consultation with the Bill Blackwood Law Enforcement Management Institute of Texas; and
- (2) review the education and training program under Subsection (b)(2)(B) at least once every 24 months.

SECTION 17. Section 1701.402, Occupations Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on investigative topics established by the commission under Section 1701.253(b).

(i) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on civil rights, racial sensitivity, and cultural diversity established by the commission under Section 1701.253(c).

SECTION 18. Section 1701.355(a), Occupations Code, is amended to read as follows:

(a) An agency that employs one or more ~~[at least two]~~ peace officers shall designate a firearms proficiency officer and require each peace officer the agency employs to demonstrate weapons proficiency to the firearms proficiency officer at least annually. The agency shall maintain records of the weapons proficiency of the agency's peace officers.

SECTION 19. Sections 1701.451(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) Before a law enforcement agency may hire a person licensed under this chapter, the agency head or the agency head's designee must:

(1) make a ~~[written]~~ request to the commission for any employment termination report regarding the person that is maintained by the commission under this subchapter; and

(2) submit to the commission on the form prescribed by the commission confirmation that the agency:

(A) conducted in the manner prescribed by the commission a criminal background check regarding the person;

(B) obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;

(C) obtained from the commission any service or education records regarding the person maintained by the commission; and

(D) contacted each of the person's previous law enforcement employers.

(b) The commission by rule shall establish a system for verifying an electronically submitted ~~[The written]~~ request required by Subsection (a)(1) ~~[must be on the agency's letterhead and be signed by the agency head or the agency head's designee].~~

(c) If the commission receives from a law enforcement agency a ~~[written]~~ request that complies with Subsections (a)(1) and (b), the commission employee having the responsibility to maintain any employment termination report regarding the person who is the subject of the request shall release the report to the agency.

SECTION 20. Section 1701.4525, Occupations Code, is amended by adding Subsection (g) to read as follows:

(g) The commission is not considered a party in a proceeding conducted by the State Office of Administrative Hearings under this section.

SECTION 21. Section 1701.453, Occupations Code, is amended to read as follows:

Sec. 1701.453. MAINTENANCE OF REPORTS AND STATEMENTS. The commission shall maintain a copy of each report and ~~written~~ statement submitted to the commission under this subchapter until at least the 10th anniversary of the date on which the report or statement is submitted.

SECTION 22. Section 1701.501(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.

SECTION 23. Subchapter K, Chapter 1701, Occupations Code, is amended by adding Section 1701.507 to read as follows:

Sec. 1701.507. ADMINISTRATIVE PENALTIES. (a) In addition to other penalties imposed by law, a law enforcement agency or governmental entity that violates this chapter or a rule adopted under this chapter is subject to an administrative penalty in an amount set by the commission not to exceed \$1,000 per day per violation. The administrative penalty shall be assessed in a proceeding conducted in accordance with Chapter 2001, Government Code.

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

- (1) the seriousness of the violation;
- (2) the respondent's history of violations;
- (3) the amount necessary to deter future violations;
- (4) efforts made by the respondent to correct the violation; and
- (5) any other matter that justice may require.

(c) The commission by rule shall establish a written enforcement plan that provides notice of the specific ranges of penalties that apply to specific alleged violations and the criteria by which the commission determines the amount of a proposed administrative penalty.

SECTION 24. Subchapter L, Chapter 1701, Occupations Code, is amended by adding Section 1701.554 to read as follows:

Sec. 1701.554. VENUE. Venue for the prosecution of an offense that arises from a violation of this chapter or in connection with the administration of this chapter lies in the county where the offense occurred or in Travis County.

SECTION 25. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle ~~traffic~~ stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, ~~[or]~~ Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle ~~[traffic]~~ stops in which a citation is issued and to arrests made as a result of ~~[resulting from]~~ those ~~[traffic]~~ stops, including information relating to:

(A) the race or ethnicity of the individual detained; ~~[and]~~

(B) whether a search was conducted and, if so, whether the individual ~~[person]~~ detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit ~~[to the governing body of each county or municipality served by the agency]~~ an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle ~~[traffic]~~ stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle ~~[traffic]~~ stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION 26. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [TRAFFIC AND PEDESTRIAN] STOPS. (a) In this article, "race[~~;~~

(1) "Race] or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance [~~regulating traffic or who stops a pedestrian for any suspected offense~~] shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [each] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [traffic law or ordinance alleged to have been violated or the suspected offense];

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description [the type] of the contraband or evidence [discovered];

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [existed and the facts supporting the existence of that probable cause];

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop[~~, including a description of the warning or a statement of the violation charged~~].

SECTION 27. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle~~[-"pedestrian"]~~ stop" has the meaning assigned by Article 2.132(a) ~~[means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest].~~

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each ~~local~~ law enforcement agency shall submit a report containing the incident-based data ~~[information]~~ compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency ~~[in a manner approved by the agency].~~

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities ~~[determine the prevalence of racial profiling by peace officers employed by the agency];~~ and

(B) examine the disposition of motor vehicle ~~[traffic and pedestrian]~~ stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from ~~[the]~~ stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic or pedestrian]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION 28. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle ~~[traffic and pedestrian]~~ stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle ~~[traffic and pedestrian]~~ stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle ~~[traffic or pedestrian]~~ stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION 29. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 30. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

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

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION 31. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$5; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 32. (a) Section 102.081, Government Code, as amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$5; ~~and~~

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (**HB 2151**), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (**HB 3167**), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 33. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;

(7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and

(9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION 34. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION 35. The following laws are repealed:

- (1) Section 1701.051(d), Occupations Code;
- (2) Section 1701.156(c), Occupations Code;
- (3) Section 1701.315, Occupations Code; and
- (4) Section 1701.406, Occupations Code.

SECTION 36. (a) The changes in law made by this Act to Sections 1701.053, 1701.056, and 1701.059, Occupations Code, apply only to a member of the Texas Commission on Law Enforcement Officer Standards and Education appointed on or after the effective date of this Act and do not affect the entitlement of a member serving on the commission immediately before that date to continue to serve and function as a member of the commission for the remainder of the member's term.

(b) Not later than March 1, 2010, the Texas Commission on Law Enforcement Officer Standards and Education shall adopt rules and policies required under:

(1) Sections 1701.202, 1701.254, and 1701.451, Occupations Code, as amended by this Act; and

(2) Sections 1701.1521, 1701.1522, 1701.1523, 1701.1524, and 1701.162, Occupations Code, as added by this Act.

(c) The changes in law made by this Act with respect to conduct that is grounds for the imposition of a disciplinary sanction, including an administrative penalty, apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before that date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

(d) The Commission on Law Enforcement Officer Standards and Education shall modify the training program required by Section 1701.352(b), Occupations Code, as amended by this Act, and ensure that the modified program is available not later than January 1, 2010.

(e) A law enforcement agency affected by the change in law made by this Act to Section 1701.355(a), Occupations Code, shall designate a firearms proficiency officer not later than March 1, 2010. For purposes of this section, a state or local governmental entity that employs one or more peace officers is a law enforcement agency.

(f) The changes in law made by this Act to Section 1701.157(b), Occupations Code, apply to allocations made on or after January 1, 2011. Allocations made before that date are 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.

(g) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(h) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 37. This Act takes effect September 1, 2009.

Representative Harper-Brown moved to adopt the conference committee report on **HB 3389**.

The motion to adopt the conference committee report on **HB 3389** prevailed by (Record 1662): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Deshotel; England; Truitt.

HB 3621 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Solomons submitted the following conference committee report on **HB 3621**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3621** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona	Solomons
Averitt	Farabee
Davis	Flynn
Watson	Elkins
Wentworth	Deshotel
On the part of the senate	On the part of the house

HB 3621, A bill to be entitled An Act relating to certain charges included in a motor vehicle installment agreement.

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

SECTION 1. Section 348.006, Finance Code, is amended to read as follows:

Sec. 348.006. PRINCIPAL BALANCE; INCLUSION OF DOCUMENTARY FEE. (a) The principal balance under a retail installment contract is computed by:

(1) adding:

(A) the cash price of the motor vehicle;

(B) each amount included in the retail installment contract for an itemized charge; and

(C) subject to Subsection (c), a documentary fee for services rendered for or on behalf of the retail buyer in [~~preparing,~~] handling[~~;~~] and processing documents relating to the motor vehicle sale [~~and to the closing of the retail installment transaction~~]; and

(2) subtracting from the results under Subdivision (1) the amount of the retail buyer's down payment in money, goods, or both.

(b) The computation of the principal balance may include an amount authorized under Section 348.404(b).

(c) For a documentary fee to be included in the principal balance of a retail installment contract:

(1) the retail seller must charge the documentary fee to cash buyers and credit buyers;

(2) the documentary fee may not exceed:

(A) \$100 [~~\$50~~] for a motor vehicle retail installment contract other than a contract for a commercial vehicle, [~~or~~] a reasonable amount agreed to by the retail seller and retail buyer for the documentary services; or

(B) for a [~~heavy~~] commercial vehicle retail installment contract, an amount agreed to in writing by the retail seller and retail buyer; and

(3) except for a buyer's order or retail installment contract for a commercial vehicle, the buyer's order and the retail installment contract must include:

(A) a statement of the amount of the documentary fee; and

(B) in reasonable proximity to the place in each where the amount of the documentary fee is disclosed, the following notice in type that is bold-faced, capitalized, underlined, or otherwise conspicuously set out from surrounding written material:

"A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS [~~AND PERFORMING SERVICES~~] RELATING TO THE [~~CLOSING OF A~~] SALE. A DOCUMENTARY FEE MAY NOT EXCEED [~~\$50 FOR A MOTOR VEHICLE CONTRACT OR~~] A REASONABLE AMOUNT AGREED TO BY THE PARTIES [~~FOR A HEAVY COMMERCIAL VEHICLE CONTRACT~~]. THIS NOTICE IS REQUIRED BY LAW."

(d) A retail seller shall post the documentary fee notice prescribed in Subsection (c) so that it is clearly visible in each place where a vehicle sale is finalized. If the language primarily used in an oral sales presentation is not the same as the language in which the retail installment contract is written, the retail seller shall furnish to the retail buyer a written statement containing the notice set out in Subsection (c)(3)(B) in the language primarily used in the oral sales presentation.

(e) Prior to increasing the maximum amount of the documentary fee the retail seller charges, a retail seller shall provide written notice to the commissioner of the maximum amount of the documentary fee the retail seller intends to charge. The commissioner may review the amount of a documentary fee for reasonableness. In determining whether a fee charged by a retail seller is reasonable, the commissioner may consider the resources required by the retail seller to perform the retail seller's duties under state and federal law with respect to the handling and processing of documents relating to the sale and financing of a motor vehicle. If the commissioner determines that a documentary fee charged is not reasonable, the commissioner may require that the documentary fee charged be reduced or suspended.

(f) A documentary fee charged in accordance with this section before September 1, 2009, is considered reasonable for purposes of this section.

(g) This section does not:

(1) create a private right of action; or

(2) require that the commissioner approve a specific documentary fee amount before a retail seller charges the fee.

(h) The finance commission may adopt rules, including rules relating to the standards for a reasonableness determination or disclosures, necessary to enforce this section. A rule adopted under this subsection may not require a retail seller to submit to the commissioner for prior approval the amount of a documentary fee that the retail seller intends to charge under this section.

(i) The commissioner has exclusive jurisdiction to enforce this section.

(j) Subsections (d), (e), and (h) do not apply with respect to a retail installment transaction for the purchase of a commercial vehicle.

SECTION 2. To the extent of conflict and regardless of the relative dates of enactment, this Act prevails over any other bill, including **HB 4361** and **SB 1965**, enacted by the 81st Legislature, Regular Session, 2009.

SECTION 3. This Act takes effect September 1, 2009.

Representative Solomons moved to adopt the conference committee report on **HB 3621**.

The motion to adopt the conference committee report on **HB 3621** prevailed by (Record 1663): 143 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClelland; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Weber.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Crownover; England; Taylor.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1663. I intended to vote present, not voting.

Harless

I was shown voting no on Record No. 1663. I intended to vote yes.

Weber

HB 3653 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Marquez submitted the following conference committee report on **HB 3653**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3653** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Davis
Carona
Seliger

Marquez
Guillen
S. King
Olivo
Strama

On the part of the senate

On the part of the house

HB 3653, A bill to be entitled An Act relating to the use of restraints to control the movement of pregnant women and female children confined in certain correctional facilities in this state.

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

SECTION 1. Subchapter B, Chapter 501, Government Code, is amended by adding Section 501.066 to read as follows:

Sec. 501.066. RESTRAINT OF PREGNANT INMATE OR DEFENDANT. (a) The department may not use restraints to control the movement of a pregnant woman in the custody of the department at any time during which the woman is in labor or delivery or recovering from delivery, unless the director or director's designee determines that the use of restraints is necessary to:

(1) ensure the safety and security of the woman or her infant, department or medical personnel, or any member of the public; or

(2) prevent a substantial risk that the woman will attempt escape.

(b) If a determination to use restraints is made under Subsection (a), the type of restraint used and the manner in which the restraint is used must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

SECTION 2. Subchapter E, Chapter 61, Human Resources Code, is amended by adding Section 61.07611 to read as follows:

Sec. 61.07611. RESTRAINT OF PREGNANT JUVENILE. (a) The commission may not use restraints to control the movement of a pregnant child who is committed to the commission at any time during which the child is in labor or delivery or recovering from delivery, unless the executive director or executive director's designee determines that the use of restraints is necessary to:

(1) ensure the safety and security of the child or her infant, commission or medical personnel, or any member of the public; or

(2) prevent a substantial risk that the child will attempt escape.

(b) If a determination to use restraints is made under Subsection (a), the type of restraint used and the manner in which the restraint is used must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

SECTION 3. Subchapter F, Chapter 361, Local Government Code, is amended by adding Section 361.082 to read as follows:

Sec. 361.082. RESTRAINT OF PREGNANT INMATE OR DEFENDANT. (a) A municipal or county jail may not use restraints to control the movement of a pregnant woman in the custody of the jail at any time during which the woman is in labor or delivery or recovering from delivery, unless the sheriff or another person with supervisory authority over the jail determines that the use of restraints is necessary to:

(1) ensure the safety and security of the woman or her infant, jail or medical personnel, or any member of the public; or

(2) prevent a substantial risk that the woman will attempt escape.

(b) If a determination to use restraints is made under Subsection (a), the type of restraint used and the manner in which the restraint is used must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

SECTION 4. This Act takes effect September 1, 2009.

Representative Marquez moved to adopt the conference committee report on **HB 3653**.

The motion to adopt the conference committee report on **HB 3653** prevailed by (Record 1664): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat;

Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Dunnam; Flores; Martinez Fischer; Ritter; Smith, W.; Truitt.

HR 2968 - ADOPTED

(by Hughes)

The following privileged resolution was laid before the house:

HR 2968

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 408** (jurisdiction, venue, and appeals in certain matters, including the jurisdiction of and appeals from certain courts and administrative decisions and the appointment of counsel in certain appeals) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text not included in either the house or senate version of the bill by adding the following SECTIONS to the bill:

SECTION 12. (a) Section 3(bb), Texas Probate Code, is amended to read as follows:

(bb) "Probate proceeding" is synonymous with the terms "Probate matter," [~~"Probate proceedings,"~~] "Proceeding in probate," and "Proceedings for probate." The term means a matter or proceeding related to the estate of a decedent [~~are synonymous~~] and includes:

(1) the probate of a will, with or without administration of the estate;
(2) the issuance of letters testamentary and of administration;
(3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;

(4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;

(5) a claim arising from an estate administration and any action brought on the claim;

(6) the settling of a personal representative's account of an estate and any other matter related to the settlement, partition, or distribution of an estate; and

(7) a will construction suit [~~include a matter or proceeding relating to the estate of a decedent~~].

(b) Chapter I, Texas Probate Code, is amended by adding Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H to read as follows:

Sec. 4A. GENERAL PROBATE COURT JURISDICTION; APPEALS. (a) All probate proceedings must be filed and heard in a court exercising original probate jurisdiction. The court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding as specified in Section 4B of this code for that type of court.

(b) A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

(c) A final order issued by a probate court is appealable to the court of appeals.

Sec. 4B. MATTERS RELATED TO PROBATE PROCEEDING. (a) For purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) an action against a personal representative or former personal representative arising out of the representative's performance of the duties of a personal representative;

(2) an action against a surety of a personal representative or former personal representative;

(3) a claim brought by a personal representative on behalf of an estate;

(4) an action brought against a personal representative in the representative's capacity as personal representative;

(5) an action for trial of title to real property that is estate property, including the enforcement of a lien against the property; and

(6) an action for trial of the right of property that is estate property.

(b) For purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsection (a) of this section;

(2) the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court; and

(3) the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) For purposes of this code, in a county in which there is a statutory probate court, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsections (a) and (b) of this section; and

(2) any cause of action in which a personal representative of an estate pending in the statutory probate court is a party in the representative's capacity as personal representative.

Sec. 4C. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS. (a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings.

(b) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, the county court at law exercising original probate jurisdiction and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law. The judge of a county court may hear probate proceedings while sitting for the judge of any other county court.

(c) In a county in which there is a statutory probate court, the statutory probate court has original jurisdiction of probate proceedings.

Sec. 4D. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT.

(a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, according to the motion:

(1) request the assignment of a statutory probate court judge to hear the contested matter, as provided by Section 25.0022, Government Code; or

(2) transfer the contested matter to the district court, which may then hear the contested matter as if originally filed in the district court.

(b) If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding before the judge of the county court transfers the contested matter to a district court under this section, the county judge shall grant the motion for the assignment of a statutory probate court judge and may not transfer the matter to the district court unless the party withdraws the motion.

(c) A party to a probate proceeding may file a motion for the assignment of a statutory probate court judge under this section before a matter in the proceeding becomes contested, and the motion is given effect as a motion for assignment of a statutory probate court judge under Subsection (a) of this section if the matter later becomes contested.

(d) Notwithstanding any other law, a transfer of a contested matter in a probate proceeding to a district court under any authority other than the authority provided by this section:

(1) is disregarded for purposes of this section; and

(2) does not defeat the right of a party to the proceeding to have the matter assigned to a statutory probate court judge in accordance with this section.

(e) A statutory probate court judge assigned to a contested matter under this section has the jurisdiction and authority granted to a statutory probate court by this code. On resolution of a contested matter for which a statutory probate court judge is assigned under this section, including any appeal of the matter, the statutory probate court judge shall return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

(f) A district court to which a contested matter is transferred under this section has the jurisdiction and authority granted to a statutory probate court by this code. On resolution of a contested matter transferred to the district court

under this section, including any appeal of the matter, the district court shall return the matter to the county court for further proceedings not inconsistent with the orders of the district court or court of appeals, as applicable.

(g) The county court shall continue to exercise jurisdiction over the management of the estate, other than a contested matter, until final disposition of the contested matter is made in accordance with this section. After a contested matter is transferred to a district court, any matter related to the probate proceeding may be brought in the district court. The district court in which a matter related to the probate proceeding is filed may, on its own motion or on the motion of any party, find that the matter is not a contested matter and transfer the matter to the county court with jurisdiction of the management of the estate.

(h) If a contested matter in a probate proceeding is transferred to a district court under this section, the district court has jurisdiction of any contested matter in the proceeding that is subsequently filed, and the county court shall transfer those contested matters to the district court. If a statutory probate court judge is assigned under this section to hear a contested matter in a probate proceeding, the statutory probate court judge shall be assigned to hear any contested matter in the proceeding that is subsequently filed.

(i) The clerk of a district court to which a contested matter in a probate proceeding is transferred under this section may perform in relation to the contested matter any function a county clerk may perform with respect to that type of matter.

Sec. 4E. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, transfer the contested matter to the county court at law. In addition, the judge of the county court, on the judge's own motion or on the motion of a party to the proceeding, may transfer the entire proceeding to the county court at law.

(b) A county court at law to which a proceeding is transferred under this section may hear the proceeding as if originally filed in that court. If only a contested matter in the proceeding is transferred, on the resolution of the matter, the matter shall be returned to the county court for further proceedings not inconsistent with the orders of the county court at law.

Sec. 4F. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which there is a statutory probate court, the statutory probate court has exclusive jurisdiction of all probate proceedings, regardless of whether contested or uncontested. A cause of action related to the probate proceeding must be brought in a statutory probate court unless the jurisdiction of the statutory probate court is concurrent with the jurisdiction of a district court as provided by Section 4H of this code or with the jurisdiction of any other court.

(b) This section shall be construed in conjunction and in harmony with Section 145 of this code and all other sections of this code relating to independent executors, but may not be construed to expand the court's control over an independent executor.

Sec. 4G. JURISDICTION OF STATUTORY PROBATE COURT WITH RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which there is a statutory probate court, the statutory probate court has jurisdiction of:

- (1) an action by or against a trustee;
- (2) an action involving an inter vivos trust, testamentary trust, or charitable trust;
- (3) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and
- (4) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

Sec. 4H. CONCURRENT JURISDICTION WITH DISTRICT COURT. A statutory probate court has concurrent jurisdiction with the district court in:

- (1) a personal injury, survival, or wrongful death action by or against a person in the person's capacity as a personal representative;
- (2) an action by or against a trustee;
- (3) an action involving an inter vivos trust, testamentary trust, or charitable trust;
- (4) an action involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate;
- (5) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and
- (6) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

(c) Section 5B(a), Texas Probate Code, is amended to read as follows:

(a) A judge of a statutory probate court, on the motion of a party to the action or on the motion of a person interested in an estate, may transfer to the judge's ~~his~~ court from a district, county, or statutory court a cause of action related to a probate proceeding ~~[appertaining to or incident to an estate]~~ pending in the statutory probate court or a cause of action in which a personal representative of an estate pending in the statutory probate court is a party and may consolidate the transferred cause of action with the other proceedings in the statutory probate court relating to that estate.

(d) Section 25.0022(i), Government Code, is amended to read as follows:

(i) A judge assigned under this section has the jurisdiction, powers, and duties given by Sections 4A, 4C, 4F, 4G, 4H ~~[5, 5A]~~, 5B, 606, 607, and 608, Texas Probate Code, to statutory probate court judges by general law.

(e) Section 25.1132(c), Government Code, is amended to read as follows:

(c) A county court at law in Hood County has concurrent jurisdiction with the district court in:

- (1) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$250,000, excluding interest;

- (2) family law cases and related proceedings;
- (3) contested probate matters under Section 4D(a) [~~5(b)~~], Texas Probate Code; and
- (4) contested guardianship matters under Section 606(b), Texas Probate Code.

(f) Section 25.1863(b), Government Code, is amended to read as follows:

(b) A county court at law has concurrent jurisdiction with the district court over contested probate matters. Notwithstanding the requirement in [~~Subsection (b)~~,] Section 4D(a) [~~5~~], Texas Probate Code, that the judge of the constitutional county court transfer a contested probate proceeding to the district court, the judge of the constitutional county court shall transfer the proceeding under that section to either a county court at law in Parker County or a district court in Parker County. A county court at law has the jurisdiction, powers, and duties that a district court has under [~~Subsection (b)~~,] Section 4D(a) [~~5~~], Texas Probate Code, for the transferred proceeding, and the county clerk acts as clerk for the proceeding. The contested proceeding may be transferred between a county court at law in Parker County and a district court in Parker County as provided by local rules of administration.

(g) Section 123.005(a), Property Code, is amended to read as follows:

(a) Venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty by a fiduciary or managerial agent of a charitable trust shall be a court of competent jurisdiction in Travis County or in the county where the defendant resides or has its principal office. To the extent of a conflict between this subsection and any provision of the Texas Probate Code providing for venue of a proceeding brought with respect to a charitable trust created by a will that has been admitted to probate, this subsection controls.

(h) Sections 4, 5, and 5A, Texas Probate Code, are repealed.

(i) The changes in law made by this section apply only to an action filed or a proceeding commenced on or after the effective date of this Act. An action filed or proceeding commenced before the effective date of this Act is governed by the law in effect on the date the action was filed or the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 13. (a) Effective January 1, 2014, Subtitle A, Title 2, Estates Code, as adopted by **HB 2502**, Acts of the 81st Legislature, Regular Session, 2009, if that Act is enacted and becomes law, is amended by adding Chapters 31 and 32 to read as follows:

CHAPTER 31. GENERAL PROVISIONS

Sec. 31.001. SCOPE OF "PROBATE PROCEEDING" FOR PURPOSES OF CODE. The term "probate proceeding," as used in this code, includes:

- (1) the probate of a will, with or without administration of the estate;
- (2) the issuance of letters testamentary and of administration;
- (3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;
- (4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;

(5) a claim arising from an estate administration and any action brought on the claim;

(6) the settling of a personal representative's account of an estate and any other matter related to the settlement, partition, or distribution of an estate; and

(7) a will construction suit.

Sec. 31.002. MATTERS RELATED TO PROBATE PROCEEDING. (a) For purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) an action against a personal representative or former personal representative arising out of the representative's performance of the duties of a personal representative;

(2) an action against a surety of a personal representative or former personal representative;

(3) a claim brought by a personal representative on behalf of an estate;

(4) an action brought against a personal representative in the representative's capacity as personal representative;

(5) an action for trial of title to real property that is estate property, including the enforcement of a lien against the property; and

(6) an action for trial of the right of property that is estate property.

(b) For purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsection (a);

(2) the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court; and

(3) the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) For purposes of this code, in a county in which there is a statutory probate court, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsections (a) and (b); and

(2) any cause of action in which a personal representative of an estate pending in the statutory probate court is a party in the representative's capacity as personal representative.

CHAPTER 32. JURISDICTION

Sec. 32.001. GENERAL PROBATE COURT JURISDICTION; APPEALS.

(a) All probate proceedings must be filed and heard in a court exercising original probate jurisdiction. The court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding as specified in Section 31.002 for that type of court.

(b) A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

(c) A final order issued by a probate court is appealable to the court of appeals.

Sec. 32.002. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS. (a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings.

(b) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, the county court at law exercising original probate jurisdiction and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law. The judge of a county court may hear probate proceedings while sitting for the judge of any other county court.

(c) In a county in which there is a statutory probate court, the statutory probate court has original jurisdiction of probate proceedings.

Sec. 32.003. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT. (a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, according to the motion:

(1) request the assignment of a statutory probate court judge to hear the contested matter, as provided by Section 25.0022, Government Code; or

(2) transfer the contested matter to the district court, which may then hear the contested matter as if originally filed in the district court.

(b) If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding before the judge of the county court transfers the contested matter to a district court under this section, the county judge shall grant the motion for the assignment of a statutory probate court judge and may not transfer the matter to the district court unless the party withdraws the motion.

(c) A party to a probate proceeding may file a motion for the assignment of a statutory probate court judge under this section before a matter in the proceeding becomes contested, and the motion is given effect as a motion for assignment of a statutory probate court judge under Subsection (a) if the matter later becomes contested.

(d) Notwithstanding any other law, a transfer of a contested matter in a probate proceeding to a district court under any authority other than the authority provided by this section:

(1) is disregarded for purposes of this section; and

(2) does not defeat the right of a party to the proceeding to have the matter assigned to a statutory probate court judge in accordance with this section.

(e) A statutory probate court judge assigned to a contested matter under this section has the jurisdiction and authority granted to a statutory probate court by this subtitle. On resolution of a contested matter for which a statutory probate court judge is assigned under this section, including any appeal of the matter, the

statutory probate court judge shall return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

(f) A district court to which a contested matter is transferred under this section has the jurisdiction and authority granted to a statutory probate court by this subtitle. On resolution of a contested matter transferred to the district court under this section, including any appeal of the matter, the district court shall return the matter to the county court for further proceedings not inconsistent with the orders of the district court or court of appeals, as applicable.

(g) The county court shall continue to exercise jurisdiction over the management of the estate, other than a contested matter, until final disposition of the contested matter is made in accordance with this section. After a contested matter is transferred to a district court, any matter related to the probate proceeding may be brought in the district court. The district court in which a matter related to the probate proceeding is filed may, on its own motion or on the motion of any party, find that the matter is not a contested matter and transfer the matter to the county court with jurisdiction of the management of the estate.

(h) If a contested matter in a probate proceeding is transferred to a district court under this section, the district court has jurisdiction of any contested matter in the proceeding that is subsequently filed, and the county court shall transfer those contested matters to the district court. If a statutory probate court judge is assigned under this section to hear a contested matter in a probate proceeding, the statutory probate court judge shall be assigned to hear any contested matter in the proceeding that is subsequently filed.

(i) The clerk of a district court to which a contested matter in a probate proceeding is transferred under this section may perform in relation to the contested matter any function a county clerk may perform with respect to that type of matter.

Sec. 32.004. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, transfer the contested matter to the county court at law. In addition, the judge of the county court, on the judge's own motion or on the motion of a party to the proceeding, may transfer the entire proceeding to the county court at law.

(b) A county court at law to which a proceeding is transferred under this section may hear the proceeding as if originally filed in that court. If only a contested matter in the proceeding is transferred, on the resolution of the matter, the matter shall be returned to the county court for further proceedings not inconsistent with the orders of the county court at law.

Sec. 32.005. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which there is a statutory probate court, the statutory probate court has exclusive jurisdiction of all probate proceedings, regardless of whether contested

or uncontested. A cause of action related to the probate proceeding must be brought in a statutory probate court unless the jurisdiction of the statutory probate court is concurrent with the jurisdiction of a district court as provided by Section 32.007 or with the jurisdiction of any other court.

(b) This section shall be construed in conjunction and in harmony with Section 145 and all other sections of this title relating to independent executors, but may not be construed to expand the court's control over an independent executor.

Sec. 32.006. JURISDICTION OF STATUTORY PROBATE COURT WITH RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which there is a statutory probate court, the statutory probate court has jurisdiction of:

- (1) an action by or against a trustee;
- (2) an action involving an inter vivos trust, testamentary trust, or charitable trust;
- (3) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and
- (4) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

Sec. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT. A statutory probate court has concurrent jurisdiction with the district court in:

- (1) a personal injury, survival, or wrongful death action by or against a person in the person's capacity as a personal representative;
- (2) an action by or against a trustee;
- (3) an action involving an inter vivos trust, testamentary trust, or charitable trust;
- (4) an action involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate;
- (5) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and
- (6) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

(b) Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H, Texas Probate Code, as added by Section 12 of this Act, are repealed.

(c) Except as otherwise provided by this subsection, this section takes effect January 1, 2014. The changes in law made by this section take effect only if **HB 2502**, Acts of the 81st Legislature, Regular Session, 2009, is enacted and becomes law. If that bill does not become law, this section has no effect.

Explanation: This addition is necessary to amend provisions relating to jurisdiction and venue of probate proceedings and proceedings regarding powers of attorney and certain trusts and to add corresponding provisions to the Estates Code if legislation creating that code is enacted and becomes law.

(2) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change, alter, or amend text not in disagreement by substituting the following for the effective date provision of the bill:

SECTION 15. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

Explanation: The change in the effective date provision is a technical change made necessary by the addition of SECTION 13 to the bill, as explained in Item (1) of this resolution. The changes in law made by that SECTION take effect January 1, 2014, if certain circumstances are met.

HR 2968 was adopted by (Record 1665): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Flores; Lucio; McCall; Miklos; Rose.

SB 408 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hughes submitted the conference committee report on **SB 408**.

Representative Hughes moved to adopt the conference committee report on **SB 408**.

The motion to adopt the conference committee report on **SB 408** prevailed by (Record 1666): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel;

Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Miklos.

Absent, Excused — Hancock; Kuempel.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1666. I intended to vote no.

Lewis

I was shown voting yes on Record No. 1666. I intended to vote no.

Phillips

HB 1935 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Villarreal submitted the following conference committee report on **HB 1935**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1935** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Duncan
Ellis
Shapiro
Averitt

Villarreal
Naishtat
McReynolds
Eissler
Lucio

On the part of the senate

On the part of the house

HB 1935, A bill to be entitled An Act relating to the establishment of certain programs to support adult and postsecondary education and workforce development in high-demand occupations and green jobs.

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

SECTION 1. Chapter 403, Government Code, is amended by adding Subchapters O and P to read as follows:

SUBCHAPTER O. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM

Sec. 403.351. DEFINITIONS. In this subchapter:

(1) "Nonprofit organization" means an organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(2) "Public junior college," "public state college," and "public technical institute" have the meanings assigned by Section 61.003, Education Code.

Sec. 403.352. JOBS AND EDUCATION FOR TEXANS (JET) FUND. (a) The comptroller shall establish and administer the Jobs and Education for Texans (JET) fund as a dedicated account in the general revenue fund.

(b) The following amounts shall be deposited in the fund:

(1) any amounts appropriated by the legislature for the fund for purposes of this subchapter;

(2) interest earned on the investment of money in the fund; and

(3) gifts, grants, and other donations received for the fund.

Sec. 403.353. ADVISORY BOARD. (a) An advisory board of education and workforce stakeholders is created to assist the comptroller in administering this subchapter.

(b) The advisory board is composed of seven members who serve two-year terms and are appointed as follows:

(1) one member appointed by the governor;

(2) one member appointed by the lieutenant governor;

(3) one member appointed by the speaker of the house of representatives;

(4) one member appointed by the Texas Higher Education Coordinating Board;

(5) one member appointed by the Texas Workforce Commission;

(6) one member of the public appointed by the comptroller; and

(7) the comptroller, who serves as the presiding officer.

(c) The advisory board shall meet at least once each quarter to review received applications and recommend awarding grants under this subchapter.

Sec. 403.354. JOBS AND EDUCATION FOR TEXANS (JET) GRANT PROGRAM. The comptroller shall establish and administer the Jobs and Education for Texans (JET) grant program to provide grants to public junior colleges, public technical institutes, and eligible nonprofit organizations that apply to the advisory board in the manner prescribed by the advisory board. The comptroller shall award the grants on the advice and recommendations of the advisory board. Grants may be awarded under this subchapter from the JET fund for the following purposes:

(1) to develop, support, or expand programs of nonprofit organizations that meet the requirements of Section 403.355 and that prepare low-income students for careers in high-demand occupations;

(2) to defray the startup costs associated with the development of new career and technical education programs at public junior colleges and public technical institutes that meet the requirements of Section 403.356; and

(3) to provide scholarships for students in career and technical education programs who meet the requirements of Section 403.357.

Sec. 403.355. GRANTS TO NONPROFIT ORGANIZATIONS FOR INNOVATIVE AND SUCCESSFUL PROGRAMS. (a) The comptroller may award a grant to a nonprofit organization eligible under Subsection (b) for the development, support, or expansion of programs to prepare low-income students for careers in high-demand occupations.

(b) To be eligible to receive a grant under this section, a nonprofit organization must:

(1) provide a program to offer assistance to low-income students in preparing for, applying to, and enrolling in a public junior college or public technical institute;

(2) be governed by a board or other governing structure that includes recognized leaders of broad-based community organizations and members of the local business community;

(3) demonstrate to the satisfaction of the advisory board that the organization's program has achieved or will achieve the following measures of success among program participants, to the extent applicable to the type of program the organization provides:

(A) above average completion of developmental education among participating public junior college or public technical institute students;

(B) above average persistence rates among participating public junior college or public technical institute students; and

(C) above average certificate or degree completion rates by participating students within a three-year period compared to demographically comparable public junior college and public technical institute students; and

(4) provide matching funds in accordance with rules adopted under Section 403.358.

(c) The matching funds required under Subsection (b)(4) may be obtained from any source available to the nonprofit organization, including in-kind contributions, community or foundation grants, individual contributions, and local governmental agency operating funds.

(c-1) In determining which eligible nonprofit organizations should be awarded a grant under this section among two or more eligible nonprofit organizations offering similar programs, the comptroller shall give priority to any of those organizations that:

(1) has an existing program in place to assist veterans; or

(2) demonstrates employment of participating students at an average full-time starting wage that is equal to or greater than the prevailing wage for the occupation entered.

(d) Grants awarded under this section must be awarded in a manner that takes a balanced geographical distribution into consideration.

(e) This section does not authorize the comptroller to award a grant to:

(1) a nonprofit organization to provide a comprehensive educational program to students that serves as a substitute for a regular educational program provided by a school district or open-enrollment charter school; or

(2) a private elementary or secondary school.

Sec. 403.356. GRANTS TO EDUCATIONAL INSTITUTIONS FOR CAREER AND TECHNICAL EDUCATION PROGRAMS. (a) The comptroller may award a grant for the development of new career and technical education courses or programs at public junior colleges and public technical institutes.

(b) A grant received under this section may be used only:

(1) to support courses or programs that prepare students for career employment in occupations that are identified by local businesses as being in high demand;

(2) to finance initial costs of career and technical education course or program development, including the costs of constructing or renovating facilities, purchasing equipment, and other expenses associated with the development of a new course; and

(3) to finance a career and technical education course or program that leads to a license, certificate, or postsecondary degree.

(c) In awarding a grant under this section, the comptroller shall primarily consider the potential economic returns to the state from the development of the career and technical education course or program. The comptroller may also consider whether the course or program:

(1) is part of a new, emerging industry or high-demand occupation;

(2) offers new or expanded dual credit career and technical educational opportunities in public high schools; or

(3) is provided in cooperation with other public junior colleges or public technical institutes across existing service areas.

(d) To be eligible to receive a grant under this section, a public junior college or public technical institute must provide matching funds in accordance with rules adopted under Section 403.358. The matching funds may be obtained from any source available to the college, including in-kind contributions, industry consortia, community or foundation grants, individual contributions, and local governmental agency operating funds.

Sec. 403.357. SCHOLARSHIPS. (a) The comptroller may award a scholarship to a public junior college or public technical institute student.

(b) To be eligible to receive a scholarship under this section, a student must:

(1) demonstrate financial need; and

(2) be enrolled in a training program for a high-demand occupation, as determined by the comptroller on the recommendation of the advisory board.

Sec. 403.358. RULES. The comptroller shall adopt rules as necessary for the administration of this subchapter.

Sec. 403.359. STUDY. (a) The comptroller shall conduct a study of the feasibility of:

(1) basing a portion of all public postsecondary technical training program funding on the economic benefit of the program to the state; and

(2) for purposes of Subdivision (1), estimating the amount of any additional tax revenue generated by employers that results from the ability of public junior colleges, public state colleges, or public technical institutes to prepare students for employment fields for which there is employer demand.

(b) The comptroller shall begin the study not later than January 1, 2010. Not later than January 1, 2011, the comptroller shall make recommendations to the lieutenant governor and the speaker of the house of representatives for legislative action based on the results of the study.

(c) This section expires September 1, 2011.

SUBCHAPTER P. GREEN JOB SKILLS DEVELOPMENT FUND AND TRAINING PROGRAM

Sec. 403.401. PURPOSE. The purpose of this subchapter is to:

(1) promote green industry employment opportunities, including through the establishment of training programs to enhance green job skills and create career opportunities that result in high-wage jobs;

(2) foster regional collaboration for the development of green industry employment opportunities;

(3) assist in the development of a highly skilled, high-wage, and productive workforce in the green industry; and

(4) assist workers with obtaining education, skills training, and labor market information to enhance their employability, earnings, and standard of living.

Sec. 403.402. DEFINITIONS. In this subchapter:

(1) "Development fund" means the Texas green job skills development fund.

(2) "Green job" means a job in the field of renewable energy or energy efficiency, including a job relating to:

(A) energy-efficient building, construction, and retrofitting;

(B) renewable energy, including biomass, hydroelectric, geothermal, and ocean energy, and wind and solar power;

(C) research and development or manufacturing of advanced battery or energy storage technologies;

(D) biofuels from non-feed food stocks;

(E) techniques to reduce, reuse, or recycle waste;

(F) techniques to recycle products and convert used materials into new products;

(G) energy efficiency assessments;

(H) manufacturing of sustainable products using sustainable processes and materials; and

(I) water conservation and water efficiency.

(3) "Recycle" means the process of extracting resources or value from waste by recovering or reusing the material, including the collection and reuse of everyday waste materials.

Sec. 403.403. TEXAS GREEN JOB SKILLS DEVELOPMENT FUND.

(a) The Texas green job skills development fund is an account in the general revenue fund. The account is composed of:

(1) legislative appropriations;

(2) gifts, grants, donations, and matching funds received under Subsection (b); and

(3) other money required by law to be deposited in the account.

(b) The comptroller may solicit and accept gifts, grants, and donations of money from the federal government, local governments, private corporations, or other persons to be used for the purposes of this subchapter.

(c) Income from money in the account shall be credited to the account.

(d) Money in the development fund may be used only for the purposes of this subchapter.

Sec. 403.404. ESTABLISHMENT OF GREEN JOB SKILLS GRANT PROGRAM. The comptroller shall establish a green job skills grant program, funded by the development fund under Section 403.403, through which the comptroller may award grants in cooperation with the Texas Workforce Commission through the State Energy Conservation Office for the implementation, expansion, and operation of green job skills training programs.

Sec. 403.405. GRANT PROGRAM REQUIREMENTS. (a) A training program funded through a grant awarded under this subchapter must:

(1) be hosted by a regional partnership that presents a plan to implement training programs that lead trainees to economic self-sufficiency and career pathways and includes at least:

(A) one university, college, technical school, or other nonprofit workforce training provider;

(B) one chamber of commerce, local workforce agency, local employer, or other public or private participating entity;

(C) one economic development authority; and

(D) one community or faith-based nonprofit organization that works with one or more targeted populations;

(2) assist an eligible individual in obtaining education, skills training, and labor market information to enhance the individual's employability in green industries; and

(3) assist in the development of a highly skilled and productive workforce in green industries.

(b) A training program awarded a grant under this subchapter shall target a population of eligible individuals for training that includes:

(1) workers in high-demand green industries who are in or are preparing for high-wage occupations;

(2) workers in declining industries who may be retrained for high-wage occupations in a high-demand green industry;

(3) agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in a high-demand green industry;

(4) veterans or past or present members of the armed forces of the United States, including the state military forces, or a reserve component of the armed forces or the national guard;

(5) unemployed workers;

(6) low-income workers, unemployed youth and adults, individuals who did not complete high school, or other underserved sectors of the workforce in high poverty areas; or

(7) individuals otherwise determined by the comptroller in cooperation with the Texas Workforce Commission to be disadvantaged and in need of training to obtain employment.

(c) A training program may receive funding under this subchapter for a period not to exceed three years.

(d) A training program may use grant funds for support services, including basic skills, literacy, GED, English as a second language, and job readiness training, career guidance, and referral services.

(e) A percentage of the grant, to be determined by the comptroller, must be devoted to administrative costs, costs related to hiring instructors and purchasing equipment, and tuition assistance.

Sec. 403.406. APPLICATION. (a) A regional partnership, as described by Section 403.405, may apply for a grant under this subchapter in the manner prescribed by the comptroller.

(b) The grant application must require the applicant to provide to the comptroller the applicant's plan to continue to operate the training program after the grant expires.

Sec. 403.407. ADDITIONAL CONSIDERATIONS IN AWARDING GRANTS. (a) In addition to the factors described by Sections 403.404 and 403.405, in determining whether to award a grant to an applicant under this subchapter, the comptroller shall give preference to a training program that:

(1) provides certification and a career advancement mechanism to a worker who receives green job skills training under the program; and

(2) leverages additional public and private resources to fund the program, including cash or in-kind matches.

(b) Grants shall be awarded in a manner that ensures geographic diversity.

Sec. 403.408. RESERVATION FOR CERTAIN PROGRAMS. Twenty percent of the funds available for grant programs under this subchapter must be reserved for job skills training programs that serve the unemployed and individuals whose incomes are at or below 200 percent of the federal poverty level.

Sec. 403.409. REPORT. (a) Not later than the 30th day after the date funding for a grant under this subchapter ends, the grant recipient shall submit a report to the comptroller that contains the following information:

(1) the number of participants who entered the program;

(2) the demographics of the participants, including race, gender, age, and significant barriers to education such as limited English proficiency, a criminal record, or a physical or mental disability;

(3) services received by participants, including training, education, and support services;

(4) the amount of program spending per participant;

(5) program completion rates;

(6) factors determined to interfere significantly with program participation or completion;

(7) the average wage at placement, including benefits, and the rate of average wage increases after one year; and

(8) any post-employment support services provided.

(b) Not later than October 1 of each even-numbered year, the comptroller shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives that includes a summary of all information submitted under Subsection (a).

Sec. 403.410. STANDARDS. The comptroller by rule shall adopt standards for a green job skills training program awarded a grant under this subchapter.

SECTION 2. The comptroller shall adopt rules for the program under Subchapter P, Chapter 403, Government Code, as added by this Act, not later than March 1, 2010.

SECTION 3. Grants provided through the Texas Adult Career Education Grant Program established under Section 403.351, Government Code, as added by this Act may only benefit a permanent legal resident or citizen of the United States.

SECTION 4. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Villarreal moved to adopt the conference committee report on **HB 1935**.

The motion to adopt the conference committee report on **HB 1935** prevailed by (Record 1667): 84 Yeas, 52 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Bolton; Bonnen; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Keffer; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Pickett; Pierson; Raymond; Rios Ybarra; Ritter; Rodriguez; Smith, W.; Smithee; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Branch; Brown, B.; Brown, F.; Button; Christian; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Hilderbran; Hughes; Hunter; Isett; Jackson; Jones; King, P.; Kleinschmidt; Laubenberg; Legler; Lewis; Madden; McCall; Merritt; Miller, D.; Morrison; Parker; Patrick; Paxton; Phillips; Pitts; Riddle; Sheffield; Shelton; Solomons; Taylor; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

Absent — Callegari; Crabb; Dukes; Flores; Harper-Brown; Kolkhorst; Miller, S.; Quintanilla; Rose; Smith, T.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1667. I intended to vote no.

Bonnen

When Record No. 1667 was taken, I was in the house but away from my desk. I would have voted yes.

Flores

When Record No. 1667 was taken, I was in the house but away from my desk. I would have voted yes.

Quintanilla

When Record No. 1667 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

HB 2000 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the following conference committee report on **HB 2000**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2000** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte

Deuell
Watson

Zaffirini

On the part of the senate

McCall

S. King
Madden

Pierson

On the part of the house

HB 2000, A bill to be entitled An Act relating to health benefit plan coverage for certain amino acid-based elemental formulas.

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

SECTION 1. Subtitle E, Title 8, Insurance Code, is amended by adding Chapter 1377 to read as follows:

CHAPTER 1377. COVERAGE FOR CERTAIN AMINO ACID-BASED
ELEMENTAL FORMULAS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1377.001. DEFINITION. In this chapter, "enrollee" means an individual entitled to coverage under a health benefit plan.

Sec. 1377.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a health benefit plan, including a small employer health benefit plan written under Chapter 1501 or coverage provided by a health group cooperative under Subchapter B of that chapter, that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842;
- (3) a fraternal benefit society operating under Chapter 885;
- (4) a stipulated premium company operating under Chapter 884;
- (5) an exchange operating under Chapter 942;
- (6) a Lloyd's plan operating under Chapter 941;
- (7) a health maintenance organization operating under Chapter 843;
- (8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or
- (9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:

- (1) a basic coverage plan under Chapter 1551;
- (2) a basic plan under Chapter 1575;
- (3) a primary care coverage plan under Chapter 1579; and
- (4) basic coverage under Chapter 1601.

Sec. 1377.003. EXCEPTION. This chapter does not apply to:

- (1) a plan that provides coverage:
 - (A) only for benefits for a specified disease or for another limited benefit, other than a plan that provides benefits for a disease or disorder listed in Section 1377.051(a);
 - (B) only for accidental death or dismemberment;
 - (C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;
 - (D) as a supplement to a liability insurance policy;
 - (E) only for dental or vision care; or

- (F) only for indemnity for hospital confinement;
(2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);
(3) a workers' compensation insurance policy;
(4) medical payment insurance coverage provided under an automobile insurance policy;
(5) a credit insurance policy;
(6) a limited benefit policy that does not provide coverage for physical examinations or wellness exams; or
(7) a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Section 1377.002.

[Sections 1377.004-1377.050 reserved for expansion]

SUBCHAPTER B. COVERAGE FOR CERTAIN AMINO ACID-BASED
ELEMENTAL FORMULAS

Sec. 1377.051. REQUIRED COVERAGE FOR CERTAIN AMINO ACID-BASED ELEMENTAL FORMULAS. (a) A health benefit plan must provide coverage as provided by this chapter for amino acid-based elemental formulas, regardless of the formula delivery method, that are used for the diagnosis and treatment of:

- (1) immunoglobulin E and non-immunoglobulin E mediated allergies to multiple food proteins;
(2) severe food protein-induced enterocolitis syndrome;
(3) eosinophilic disorders, as evidenced by the results of a biopsy; and
(4) impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, and motility of the gastrointestinal tract.

(b) Subject to Subsection (c), the coverage required under Subsection (a) is required if the treating physician has issued a written order stating that the amino acid-based elemental formula is medically necessary for the treatment of an enrollee who is diagnosed with a disease or disorder listed in Subsection (a). The coverage must include coverage of any medically necessary services associated with the administration of the formula.

(c) A health benefit plan must provide the coverage described by Subsection (a) on a basis no less favorable than the basis on which prescription drugs and other medications and related services are covered by the plan, and to the same extent that the plan provides coverage for drugs that are available only on the orders of a physician.

Sec. 1377.052. UTILIZATION REVIEW. (a) A utilization review agent acting on behalf of a health benefit plan issuer may review a treating physician's determination of the medical necessity of the use of an amino acid-based elemental formula for the treatment of an enrollee who is diagnosed with a disease or disorder listed in Section 1377.051(a).

- (b) Utilization review under this section is subject to Chapter 4201.

SECTION 2. Chapter 1377, Insurance Code, as added by this Act, applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2010. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2010, is covered by the law in effect at the time the plan was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

Representative McCall moved to adopt the conference committee report on **HB 2000**.

The motion to adopt the conference committee report on **HB 2000** prevailed by (Record 1668): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Callegari; Dukes; Miller, S.; Rose; Truitt.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1668. I intended to vote no.

B. Brown

I was shown voting yes on Record No. 1668. I intended to vote no.

Flynn

HB 3224 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Madden submitted the following conference committee report on **HB 3224**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3224** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Whitmire
Hegar
Van de Putte

Madden
Miklos
Moody
Riddle
Bohac

On the part of the senate

On the part of the house

HB 3224, A bill to be entitled An Act relating to the prosecution and punishment of the offense of arson.

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

SECTION 1. Section 28.02, Penal Code, is amended by adding Subsection (a-2) and amending Subsections (f) and (g) to read as follows:

(a-2) A person commits an offense if the person intentionally starts a fire or causes an explosion and in so doing:

- (1) recklessly damages or destroys a building belonging to another; or
- (2) recklessly causes another person to suffer bodily injury or death.

~~(f) An offense under Subsection (a-2) is a state jail felony [It is a felony of the third degree if a person commits an offense under Subsection (a)(2) of this section and the person intentionally starts a fire in or on a building, habitation, or vehicle, with intent to damage or destroy property belonging to another, or with intent to injure any person, and in so doing, recklessly causes damage to the building, habitation, or vehicle].~~

(g) If conduct that constitutes an offense under Subsection (a-1) or that constitutes an offense under Subsection (a-2) [~~(f)~~] also constitutes an offense under another subsection of this section or another section of this code, the actor may be prosecuted under Subsection (a-1) or Subsection (a-2) [~~(f)~~], under the other subsection of this section, or under the other section of this code.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

Representative Madden moved to adopt the conference committee report on **HB 3224**.

The motion to adopt the conference committee report on **HB 3224** prevailed by (Record 1669): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum(C); Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

Absent — Rose.

(Speaker in the chair)

SB 1011 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Harper-Brown submitted the conference committee report on **SB 1011**.

SB 1011 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE Y. DAVIS: Thank you, Representative Harper-Brown, we appreciate your leadership in this effort. I just want to ask a question relative to the study for volunteer firefighters. That was one that we spent a lot of time discussing and debating on the house floor, and I want to ask just a couple questions, because I want members to know that we're leaving here with 80 percent of the state being covered by volunteer firefighters. Is that correct?

REPRESENTATIVE HARPER-BROWN: That's correct.

Y. DAVIS: Is it also correct that we don't know what level of training these firefighters have had?

HARPER-BROWN: That is correct, as well.

Y. DAVIS: Is it also true that we don't know what kind of resources and assets that are out in the various parts of the state that are covered by volunteer firefighters?

HARPER-BROWN: That is correct.

Y. DAVIS: Isn't it true that based on those kinds of things—with regard to not knowing the level of training, the level of resources, the amount of territory that's covered by firefighters—that it was the thought that the house ought to do a joint study with the senate to look at this, right?

HARPER-BROWN: That's right, Ms. Davis. We worked really hard to try to come up with a compromise that everyone agreed upon, and that they thought was a very helpful suggestion, to look at the study to determine exactly those factors that you have discussed.

Y. DAVIS: Isn't it true, right now, we have bits and pieces of the fire department, if you will, for the state in various agencies, and so, there's no concentrated, focal point so we know what we're doing? Is that correct?

HARPER-BROWN: That is correct. I think Mr. McReynolds would agree with us that there is something that needs to be done about this disconnect between the volunteer and the paid fire departments.

Y. DAVIS: It's not between the paid and the volunteer firefighters, because the paid are certified firefighters. Is that not correct?

HARPER-BROWN: That's right.

Y. DAVIS: They already get training and have a training module. Is that correct?

HARPER-BROWN: That's right. Now, I will say though that some of the paid firefighters are also volunteer firefighters. So, some of them do have training, and I believe there is some training offered through the forestry or through other organizations for volunteers. We just don't know who or how many.

Y. DAVIS: In fact, we've allocated money so that they could be trained. Isn't that correct?

HARPER-BROWN: That's right. We do have money in there for training.

Y. DAVIS: So the question then would be before the house, or I think for us to consider, is the fact that we are allowing 80 percent of this state to be covered by volunteer firefighters who—we don't know what level of training, how much training. We know that there are some resources, and they might very well have had some training in some of the areas of the state, but we don't know to what extent. Is that correct?

HARPER-BROWN: That is correct.

Y. DAVIS: So, if we were forced to deal with an emergency, we might find ourselves at a disadvantage. Would you agree to that?

HARPER-BROWN: It's quite possible. Although, again, I do know some of the firefighters have had training, and I know some of them are really small towns or areas where they may only have one person that even responds to fires, and they have to depend on them. That's why we thought that the study was a better route to go so we could look at all those different fire departments around the state and just have an understanding to ensure that they were protected.

Y. DAVIS: We may very well have to send somebody to help protect or cover particular areas. Is that not correct? If we get into a situation where there's a town with only one person, as you just used as an example, it might very well be that we might have to send resources to protect that part of the state. Isn't that correct?

HARPER-BROWN: Well, I think that was the question—would it be or would it not? Do they have everything they need in those volunteer fire departments? That's what we were trying to discover.

Y. DAVIS: Right, and the last question Ms. Harper-Brown, I just want to put on the record. When we leave here as legislators, we've left the state with 80 percent of the state being covered by volunteers. We've left the state in a very vulnerable position, because we don't know—isn't it true—we don't know what our strengths are, or our weaknesses are at this point?

HARPER-BROWN: Well, I agree that we don't know within many of those volunteer fire departments. I'm hopeful that in the future Sunset reports that possibly we'll be able to look at the agency that does oversee the volunteer fire departments and combine those two agencies.

Y. DAVIS: Lastly, I know there is a lot of good work that goes on, and I know the forestry and some other agencies are working together with homeland and all, so I don't want to negate what they're doing. I just want to maybe suggest that we could do a better job. Is that your thought?

HARPER-BROWN: No, you're absolutely right, and I appreciate that, because I know that our firefighters work very hard—our volunteers and our paid—to try to protect our state, and I know that your concern was that we ensure that they have the right tools.

Y. DAVIS: The fact is that we don't know what we have. Is that correct?

HARPER-BROWN: That's right.

REMARKS ORDERED PRINTED

Representative Y. Davis moved to print remarks between Representative Harper-Brown and Representative Y. Davis.

The motion prevailed.

Representative Harper-Brown moved to adopt the conference committee report on **SB 1011**.

The motion to adopt the conference committee report on **SB 1011** prevailed (Record 1670): 143 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle;

Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — King, T.; Legler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Dukes; Quintanilla.

STATEMENTS OF VOTE

When Record No. 1670 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

I was shown voting no on Record No. 1670. I intended to vote yes.

T. King

When Record No. 1670 was taken, I was in the house but away from my desk. I would have voted yes.

Quintanilla

SB 1645 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hopson submitted the conference committee report on **SB 1645**.

Representative Hopson moved to adopt the conference committee report on **SB 1645**.

The motion to adopt the conference committee report on **SB 1645** prevailed by (Record 1671): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett;

Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Deshotel; Harless; Kolkhorst; Patrick; Peña; Rose.

STATEMENT OF VOTE

When Record No. 1671 was taken, I was in the house but away from my desk. I would have voted yes.

Patrick

SB 1759 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pickett submitted the conference committee report on **SB 1759**.

Representative Pickett moved to adopt the conference committee report on **SB 1759**.

The motion to adopt the conference committee report on **SB 1759** prevailed by (Record 1672): 135 Yeas, 9 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Anderson; Brown, B.; Crabb; Elkins; Fletcher; Flynn; Merritt; Riddle; Truitt.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Crownover; Harless; Hodge.

STATEMENT OF VOTE

I was shown voting no on Record No. 1672. I intended to vote yes.

Truitt

HB 432 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Lucio submitted the following conference committee report on **HB 432**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 432** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Estes

Watson

Van de Putte

On the part of the senate

Lucio

Otto

Strama

On the part of the house

HB 432, A bill to be entitled An Act relating to the acquisition by state agencies of low-emissions vehicles and vehicles using alternative fuels.

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

SECTION 1. Section 2158.001, Government Code, is amended to read as follows:

Sec. 2158.001. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

(1) "Conventional [~~conventional~~] gasoline" means any gasoline that does not meet specifications set by a certification under Section 211(k) of the federal Clean Air Act (42 U.S.C. Section 7545(k)).

(2) "Golf cart" has the meaning assigned by Section 502.001, Transportation Code.

(3) "Light-duty motor vehicle" has the meaning assigned by Section 386.151, Health and Safety Code.

(4) "Motor vehicle" has the meaning assigned by Section 386.151, Health and Safety Code.

(5) "Neighborhood electric vehicle" means a motor vehicle that:

(A) is originally manufactured to meet, and does meet, the equipment requirements and safety standards established for "low-speed vehicles" in Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500);

(B) is a slow-moving vehicle, as defined by Section 547.001, Transportation Code, that is able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour in one mile on a paved, level surface;

(C) is a four-wheeled motor vehicle;

(D) is powered by electricity or alternative power sources;

(E) has a gross vehicle weight rating of less than 3,000 pounds; and

(F) is not a golf cart.

(6) "Plug-in hybrid motor vehicle" means a vehicle that:

(A) draws motive power from a battery with a capacity of at least four kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-duty motor vehicle capable of operating at highway speeds, excluding golf carts and neighborhood electric vehicles.

SECTION 2. Subchapter A, Chapter 2158, Government Code, is amended by adding Section 2158.0013 to read as follows:

Sec. 2158.0013. APPLICABILITY OF SUBCHAPTER. The purchasing requirements relating to alternatively fueled vehicles established by this subchapter do not apply if a state agency demonstrates that the state agency will incur net costs in meeting the requirements of this subchapter.

SECTION 3. Section 2158.003(a), Government Code, is amended to read as follows:

(a) A state agency may not purchase or lease a vehicle designed or used primarily for the transportation of individuals, including a station wagon, that has a wheelbase longer than 113 inches or that has more than 160 SAE net horsepower. The vehicle may have a wheelbase of up to 116 inches or SAE net horsepower of up to 280 if the vehicle will be converted so that it uses [is capable of using] compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle. This exception to the wheelbase and horsepower limitations applies to a state agency regardless of the size of the agency's vehicle fleet.

SECTION 4. Sections 2158.004(a), (b), (c), and (d), Government Code, are amended to read as follows:

(a) A state agency operating a fleet of more than 15 vehicles, excluding law enforcement and emergency vehicles, may not purchase or lease a motor vehicle unless that vehicle uses [is capable of using] compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

(b) A state agency may obtain equipment or refueling facilities necessary to operate vehicles using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater,

ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle:

- (1) by purchase or lease as authorized by law;
- (2) by gift or loan of the equipment or facilities; or
- (3) by gift or loan of the equipment or facilities or by another arrangement under a service contract for the supply of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

(c) If the equipment or facilities are donated, loaned, or provided through another arrangement with the supplier of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, the supplier is entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(d) The commission may waive the requirements of this section for a state agency on receipt of certification supported by evidence acceptable to the commission that:

- (1) the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has or can reasonably be expected to establish adequate refueling for compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle; or

- (2) the agency is unable to obtain equipment or refueling facilities necessary to operate vehicles using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, at a projected cost that is reasonably expected to be no greater than the net costs of continued use of conventional gasoline or diesel fuels, measured over the expected useful life of the equipment or facilities supplied.

SECTION 5. Sections 2158.005, 2158.006, 2158.007, and 2158.008, Government Code, are amended to read as follows:

Sec. 2158.005. PERCENTAGE REQUIREMENTS FOR VEHICLES [~~CAPABLE OF~~] USING ALTERNATIVE FUELS[~~; PROGRAM REVIEW~~]. (a) Not later than September 30, 2010 [~~1, 1996~~], a state agency that operates a fleet of more than 15 motor vehicles, excluding law enforcement and emergency vehicles, shall have a fleet consisting of vehicles of which at least 50 percent use [~~are capable of using~~] compressed natural gas, liquefied natural gas, liquefied

petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

~~(b) [The Texas Natural Resource Conservation Commission shall review the program established by this subchapter by December 31, 1996. If the Texas Natural Resource Conservation Commission determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, then after August 31, 1998, a state agency operating a fleet of more than 15 motor vehicles shall have a fleet consisting of vehicles of which at least 90 percent are capable of using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.]~~

~~(e)~~ The Texas Commission on Environmental Quality [commission] shall collect [support the Texas Natural Resource Conservation Commission in collecting] reasonable information needed to determine the air quality benefits from use of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, at affected agencies.

~~(d)~~ (3) A state agency in its annual financial report to the legislature shall report its progress in achieving the percentage requirements of this section by [itemizing]:

(1) itemizing purchases, leases, and conversions of motor vehicles; [and]

(2) itemizing usage of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle;

(3) describing the availability of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle; and

(4) providing the information reasonably needed to determine the air quality benefits from use of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle.

~~(e)~~ (d) A state agency may meet the percentage requirements of this section through purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws.

The Texas State Technical College System shall develop a program and provide training to a state agency converting an existing vehicle to meet the requirements of this section.

(e) ~~(f)~~ The comptroller ~~[commission]~~ may reduce a percentage specified by this section or waive the requirements of this section for a state agency on receipt of certification supported by evidence acceptable to the comptroller ~~[commission]~~ that:

(1) the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has or can reasonably be expected to establish adequate refueling for compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle; or

(2) the agency is unable to obtain equipment or refueling facilities necessary to operate vehicles using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, at a projected cost that is reasonably expected to be no greater than the net costs of continued use of conventional gasoline or diesel fuels, measured over the expected useful life of the equipment or facilities supplied.

Sec. 2158.006. DETERMINATION OF ALTERNATIVE FUELS PROGRAM PARAMETERS. In developing the use of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, the commission should work with state agency fleet operators, vehicle manufacturers and converters, fuel distributors, and others to determine the vehicles to be covered, taking into consideration:

- (1) range;
- (2) specialty uses;
- (3) fuel availability;
- (4) vehicle manufacturing and conversion capability;
- (5) safety;
- (6) resale values; and
- (7) other relevant factors.

Sec. 2158.007. COMPLIANCE WITH APPLICABLE SAFETY STANDARDS. In purchasing, leasing, maintaining, or converting vehicles for use with compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a

plug-in hybrid motor vehicle, the commission shall comply with all applicable safety standards adopted by the United States Department of Transportation and the Railroad Commission of Texas.

Sec. 2158.008. WHEN VEHICLE CONSIDERED TO BE [CAPABLE OF] USING ALTERNATIVE FUELS. In this subchapter, a vehicle is considered to be ~~[capable of]~~ using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, if the vehicle uses [is capable of using] those fuels:

(1) not less than 80 percent of the time the vehicle is driven; and

(2) either in its original equipment engine or in an engine that has been converted to use those fuels.

SECTION 6. Section 2158.009, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) A state agency authorized to purchase passenger vehicles or other ground transportation vehicles for general use shall ensure that not less than 25 ~~[40]~~ percent of the vehicles the agency [its vehicle] purchases during any state fiscal biennium, other than vehicles the purchase of which is exempted from this subsection by Subsection (c) or (d), are [purchases of] vehicles that meet or exceed the emissions standards necessary to be rated by the United States Environmental Protection Agency as a Tier II, Bin 3, emissions standard vehicle that has a greenhouse gas score of eight under regulations of that agency as they existed September 1, 2007.

(d) Subsection (b) does not apply to a state agency's purchase of a vehicle to be used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, whose duties include the apprehension of persons for violation of a criminal law of this state.

SECTION 7. Section 2158.009(a), Government Code, is repealed.

SECTION 8. This Act takes effect September 1, 2009.

Representative Lucio moved to adopt the conference committee report on **HB 432**.

The motion to adopt the conference committee report on **HB 432** prevailed by (Record 1673): 109 Yeas, 36 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Bohac; Bolton; Brown, B.; Burnam; Castro; Chavez; Cohen; Coleman; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz;

Otto; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley.

Nays — Anderson; Berman; Bonnen; Branch; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Crabb; Craddick; Elkins; Fletcher; Gattis; Geren; Hamilton; Harper-Brown; Isett; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; McCall; Miller, D.; Miller, S.; Orr; Parker; Paxton; Phillips; Riddle; Sheffield; Shelton; Truitt; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Jones; Rose.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1673. I intended to vote no.

B. Brown

I was shown voting yes on Record No. 1673. I intended to vote no.

Flynn

I was shown voting yes on Record No. 1673. I intended to vote no.

Harless

I was shown voting yes on Record No. 1673. I intended to vote no.

Lewis

I was shown voting yes on Record No. 1673. I intended to vote no.

Weber

HR 2995 - ADOPTED (by P. King)

The following privileged resolution was laid before the house:

HR 2995

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 469** (the establishment of incentives by this state for the implementation of projects to capture and sequester carbon dioxide that would otherwise be emitted into the atmosphere) to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to change, alter, or amend text that is not in disagreement and to add text on any matter that is not in disagreement in SECTION 1 of the bill, in the heading to added Subchapter H, Chapter 490, Government Code, to read as follows:

SUBCHAPTER H. FRANCHISE TAX CREDIT FOR CLEAN ENERGY
PROJECT

Explanation: The change is necessary to clarify that the subchapter authorizes a franchise tax credit for a clean energy project.

(2) House Rule 13, Section 9(a)(3) and (4), are suspended to permit the committee to add text on a matter that is not in disagreement and to add text on a matter that is not included in either the house or senate version of the bill in SECTION 1 of the bill, in added Section 490.352(a), Government Code, to read as follows:

A clean energy project is eligible for a franchise tax credit only if the project is implemented in connection with the construction of a new facility.

Explanation: This addition is necessary to limit eligibility for the franchise tax credit authorized by the bill to clean energy projects implemented in connection with the construction of a new facility.

(3) House Rule 13, Sections 9(a)(1), (2), and (3), are suspended to permit the committee to change, alter, or amend text that is not in disagreement, to omit text that is not in disagreement, and to add text on any matter that is not in disagreement in SECTION 1 of the bill, in added Section 490.352(d), Government Code, to read as follows:

(d) The amount of the franchise tax credit for each report year is calculated by determining the amount of franchise tax that is due based on the taxable margin generated by a clean energy project from the generation and sale of power and the sale of any products that are produced by the electric generation facility. The amount of the franchise tax credit claimed under this section for a report year may not exceed the amount of franchise tax attributable to the clean energy project for that report year.

Explanation: The change is necessary to specify the method to be used in calculating the amount of the franchise tax credit issued to an entity implementing a clean energy project in this state.

HR 2995 was adopted by (Record 1674): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield;

Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Callegari; Heflin; Howard, C.; Miller, S.; Pitts; Smith, W.

HB 469 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative P. King submitted the following conference committee report on **HB 469**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 469** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger	P. King
Averitt	Lewis
Fraser	Anchia
Ogden	Strama
Shapleigh	Hardcastle
On the part of the senate	On the part of the house

HB 469, A bill to be entitled An Act relating to the establishment of incentives by this state for the implementation of certain projects to capture and sequester carbon dioxide that would otherwise be emitted into the atmosphere.

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

SECTION 1. Chapter 490, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. FRANCHISE TAX CREDIT FOR CLEAN ENERGY PROJECT

Sec. 490.351. DEFINITION. In this subchapter, "clean energy project" has the meaning assigned by Section 120.001, Natural Resources Code.

Sec. 490.352. FRANCHISE TAX CREDIT FOR CLEAN ENERGY PROJECT. (a) The comptroller shall adopt rules for issuing to an entity implementing a clean energy project in this state a franchise tax credit. A clean energy project is eligible for a franchise tax credit only if the project is implemented in connection with the construction of a new facility.

(b) The comptroller shall issue a franchise tax credit to an entity operating a clean energy project after:

(1) the Railroad Commission of Texas has issued a certificate of compliance for the project to the entity as provided by Section 120.004, Natural Resources Code;

(2) the construction of the project has been completed;

(3) the electric generating facility associated with the project is fully operational;

(4) the Bureau of Economic Geology of The University of Texas at Austin verifies to the comptroller that the electric generating facility associated with the project is sequestering at least 70 percent of the carbon dioxide resulting from or associated with the generation of electricity by the facility; and

(5) the owner or operator of the project has entered into an interconnection agreement relating to the project with the Electric Reliability Council of Texas.

(c) The total amount of the franchise tax credit that may be issued to the entity designated in the certificate of compliance for a clean energy project is equal to the lesser of:

(1) 10 percent of the total capital cost of the project, including the cost of designing, engineering, permitting, constructing, and commissioning the project, the cost of procuring land, water, and equipment for the project, and all fees, taxes, and commissions paid and other payments made in connection with the project but excluding the cost of financing the capital cost of the project; or

(2) \$100 million.

(d) The amount of the franchise tax credit for each report year is calculated by determining the amount of franchise tax that is due based on the taxable margin generated by a clean energy project from the generation and sale of power and the sale of any products that are produced by the electric generation facility. The amount of the franchise tax credit claimed under this section for a report year may not exceed the amount of franchise tax attributable to the clean energy project for that report year.

(e) The comptroller may not issue a franchise tax credit under this section before September 1, 2013. This subsection expires September 2, 2013.

SECTION 2. Section 382.003(1-a), Health and Safety Code, is amended to read as follows:

(1-a) "Advanced clean energy project" means a project for which an application for a permit or for an authorization to use a standard permit under this chapter is received by the commission on or after January 1, 2008, and before January 1, 2020, and that:

(A) involves the use of coal, biomass, petroleum coke, solid waste, or fuel cells using hydrogen derived from such fuels, in the generation of electricity, or the creation of liquid fuels outside of the existing fuel production infrastructure while co-generating electricity, whether the project is implemented in connection with the construction of a new facility or in connection with the modification of an existing facility and whether the project involves the entire emissions stream from the facility or only a portion of the emissions stream from the facility;

(B) with regard to the portion of the emissions stream from the facility that is associated with the project, is capable of achieving:

(i) on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions or, if the project is designed for the use of feedstock substantially all of which is subbituminous coal, an emission rate of 0.04 pounds or less of sulfur dioxide per million British thermal units as determined by a 30-day average;

(ii) on an annual basis ~~7~~ a 95 percent or greater reduction of mercury emissions;

(iii) ~~7~~ ~~and~~ an annual average emission rate for nitrogen oxides of:

(a) 0.05 pounds or less per million British thermal units; or

(b) if the project uses gasification technology, 0.034 pounds or less per million British thermal units; and

(iv) an annual average emission rate for filterable particulate matter of 0.015 pounds or less per million British thermal units; and

(C) captures not less than 50 percent of the ~~renders~~ carbon dioxide in the portion of the emissions stream from the facility that is associated with the project and sequesters that captured carbon dioxide by geologic storage or other means ~~[capable of capture, sequestration, or abatement if any carbon dioxide is produced by the project].~~

SECTION 3. Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapter 120 to read as follows:

CHAPTER 120. VERIFICATION, MONITORING, AND CERTIFICATION OF
CLEAN ENERGY PROJECT

Sec. 120.001. DEFINITIONS. In this chapter:

(1) "Bureau" means the Bureau of Economic Geology of The University of Texas at Austin.

(2) "Clean energy project" means a project to construct a coal-fueled or petroleum coke-fueled electric generating facility, including a facility in which the fuel is gasified before combustion, that will:

(A) have a capacity of at least 200 megawatts;

(B) meet the emissions profile for an advanced clean energy project under Section 382.003(1-a)(B), Health and Safety Code;

(C) capture at least 70 percent of the carbon dioxide resulting from or associated with the generation of electricity by the facility;

(D) be capable of permanently sequestering in a geological formation the carbon dioxide captured; and

(E) be capable of supplying the carbon dioxide captured for purposes of an enhanced oil recovery project.

(3) "Commission" means the Railroad Commission of Texas.

(4) "Sequester" means to inject carbon dioxide into a geological formation in a manner and under conditions that create a reasonable expectation that at least 99 percent of the carbon dioxide injected will remain sequestered from the atmosphere for at least 1,000 years.

Sec. 120.002. CERTIFICATION OF CLEAN ENERGY PROJECT. (a) The commission is the authority responsible for certifying whether a project has met the requirements for a clean energy project.

(b) An entity may apply to the commission for a certification that a project operated by the entity meets the requirements for a clean energy project. The application must be accompanied by:

(1) a certificate from a qualified independent engineer that the project is operational and meets the standards provided by Sections 120.001(2)(A), (B), and (C); and

(2) a fee payable to the commission.

(c) The amount of the fee prescribed by Subsection (b)(2) is \$50,000 unless the commission by rule determines that a fee in a greater amount is necessary to cover the commission's costs of processing an application.

Sec. 120.003. MONITORING OF SEQUESTERED CARBON DIOXIDE.

(a) An entity that applies to the commission under Section 120.002 for a certification that a project operated by the entity meets the requirements for a clean energy project is responsible for conducting a monitoring, measuring, and verification process that demonstrates that the project complies with the requirements of Section 490.352(b)(4), Government Code.

(b) The entity shall contract with the bureau for the bureau to:

(1) design initial protocols and standards for the process described by Subsection (a);

(2) review the conduct of the process described by Subsection (a) in order to make any necessary changes in the design of the protocols and standards;

(3) evaluate the results of the process described by Subsection (a);

(4) provide an evaluation of the results of the process described by Subsection (a) to the commission; and

(5) determine whether to transmit to the comptroller the verification described by Section 490.352(b)(4), Government Code.

(c) Unless otherwise agreed by the entity and the bureau, a contract required by Subsection (b) must require the entity to compensate the bureau by paying an annual fee in accordance with the following schedule:

<u>Year</u>	<u>Amount</u>
<u>One</u>	<u>\$700,000</u>
<u>Two</u>	<u>\$1,300,000</u>
<u>Three</u>	<u>\$1,800,000</u>
<u>Four</u>	<u>\$1,500,000</u>
<u>Five</u>	<u>\$1,200,000</u>
<u>Six</u>	<u>\$900,000</u>
<u>Seven</u>	<u>\$500,000</u>
<u>Eight</u>	<u>\$200,000</u>

(d) The first payment under Subsection (c) is due not later than 24 months before the date the entity first supplies carbon dioxide captured by the project to an enhanced oil recovery project.

Sec. 120.004. ISSUANCE OF CERTIFICATE OF COMPLIANCE. (a) On verification that a project meets the requirements for certification as a clean energy project, the commission shall issue a certificate of compliance for the project to the entity operating the project and shall provide a copy of the certificate to the comptroller.

(b) The commission may not issue a certificate of compliance for more than three clean energy projects.

SECTION 4. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.334 to read as follows:

Sec. 151.334. COMPONENTS OF TANGIBLE PERSONAL PROPERTY USED IN CONNECTION WITH SEQUESTRATION OF CARBON DIOXIDE.

Components of tangible personal property used in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, or a clean energy project, as defined by Section 120.001, Natural Resources Code, are exempted from the taxes imposed by this chapter if:

(1) the components are installed to capture carbon dioxide from an anthropogenic emission source, transport or inject carbon dioxide from such a source, or prepare carbon dioxide from such a source for transportation or injection; and

(2) the carbon dioxide is sequestered in this state:

(A) as part of an enhanced oil recovery project that qualifies for a tax rate reduction under Section 202.0545, as provided by Subsection (c) of that section; or

(B) in a manner and under conditions that create a reasonable expectation that at least 99 percent of the carbon dioxide will remain sequestered from the atmosphere for at least 1,000 years.

SECTION 5. Sections 202.0545(a) and (d), Tax Code, are amended to read as follows:

(a) Subject to the limitations provided by this section, until ~~[the later of]~~ the 30th ~~[seventh]~~ anniversary of the date that the comptroller first approves an application for a tax rate reduction under this section ~~[or the effective date of a final rule adopted by the United States Environmental Protection Agency regulating carbon dioxide as a pollutant]~~, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

(1) is captured from an anthropogenic source in this state;

(2) would otherwise be released into the atmosphere as industrial emissions;

(3) is measurable at the source of capture; and

(4) is sequestered in one or more geological formations in this state following the enhanced oil recovery process.

(d) An agency to which an operator applies for a certification under Subsection (c)(2) may issue the certification only if the agency finds that, based on substantial evidence, there is a reasonable expectation that:

(1) ~~[the operator's planned sequestration program will ensure that]~~ at least 99 percent of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1,000 years; and

(2) the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period sufficient to demonstrate whether the sequestration program is performing as expected.

SECTION 6. Section 313.021(4), Tax Code, is amended to read as follows:

(4) "Qualifying time period" means:

(A) the first two tax years that begin on or after the date a person's application for a limitation on appraised value under this subchapter is approved, except as provided by Paragraph (B) or (C); ~~or~~

(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner; or

(C) in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

SECTION 7. (a) Not later than September 1, 2010, September 1, 2012, and September 1, 2016, the Texas Commission on Environmental Quality shall make recommendations to the legislature on whether the emissions profile set out in Sections 120.001(2)(B) and (C), Natural Resources Code, as added by this Act, and Sections 382.003(1-a)(B) and (C), Health and Safety Code, as amended by this Act, should be adjusted to increase or decrease elements of the emissions profile. Before making its recommendations, the commission shall determine whether any commercially demonstrated electric generating facility operating in the United States that meets the criteria and emissions profile specified by Section 120.001(2), Natural Resources Code, as added by this Act, is capturing and sequestering a greater percentage of the carbon dioxide in the emissions stream from the facility than would be required to meet the emissions profile set out in that subdivision and whether any commercially demonstrated electric generating facility operating in the United States that meets the criteria and emissions profile specified by Sections 382.003(1-a)(A), (B), and (C), Health and Safety Code, as amended by this Act, is capturing and sequestering a greater percentage of the carbon dioxide in the emissions stream from the facility than would be required to meet the emissions profile set out in those paragraphs. If at least one such facility exists, the commission shall recommend raising the minimum percentage of carbon dioxide in the emissions stream from a facility that is required to be captured and sequestered for the facility to qualify as a clean energy project or advanced clean energy project to the highest percentage of carbon dioxide that is being captured and sequestered by such a facility.

(b) Factors that must be considered in the assessment of the emissions profile include:

(1) the technical and economic feasibility of meeting all of the elements of the emissions profile set out in Sections 120.001(2)(B) and (C), Natural Resources Code, as added by this Act, or Sections 382.003(1-a)(A), (B), and (C), Health and Safety Code, as amended by this Act, in a commercially viable project, as documented by the United States Department of Energy;

(2) the technical and economic feasibility of projects to meet all of the elements of the emissions profile and still use a diverse range of fuels, including lignite; and

(3) the adequacy of the incentives provided by this Act, or similar legislation that becomes law, to continue to attract investment in and federal funding for clean energy projects and advanced clean energy projects in this state.

(c) Any adjustments to the emissions profile implemented by the legislature in response to a report required by this section do not apply to an application considered administratively complete on or before the date the adjustment takes effect.

SECTION 8. The comptroller shall adopt rules under Section 490.352, Government Code, as added by this Act, not later than December 31, 2010.

SECTION 9. Not later than January 1, 2010, the Texas Commission on Environmental Quality shall adopt rules as necessary to implement Section 382.003, Health and Safety Code, as amended by this Act.

SECTION 10. Section 151.334, Tax Code, as added by this Act, does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 11. The Railroad Commission of Texas may adopt rules as necessary to implement Section 202.0545, Tax Code, as amended by this Act.

SECTION 12. The comptroller of public accounts may adopt rules as necessary to implement Section 202.0545, Tax Code, as amended by this Act.

SECTION 13. This Act takes effect September 1, 2009.

Representative P. King moved to adopt the conference committee report on **HB 469**.

The motion to adopt the conference committee report on **HB 469** prevailed by (Record 1675): 141 Yeas, 5 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt;

Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Burnam; Davis, Y.; Hodge; Pierson; Turner, S.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Menendez.

HB 770 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative D. Howard submitted the following conference committee report on **HB 770**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 770** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Eltife
Huffman
Williams
Wentworth
Jackson

Taylor
Christian
Eiland
D. Howard

On the part of the senate

On the part of the house

HB 770, A bill to be entitled An Act relating to ad valorem tax relief for an owner of certain property, including a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage, and to a restriction on the authority to bring an action to remove a house that is partially located on a public beach as a result of a meteorological event.

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

SECTION 1. Section 61.018, Natural Resources Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) Except as provided by Subsection (a-1), any [~~Any~~] county attorney, district attorney, or criminal district attorney, or the attorney general at the request of the commissioner, shall file in a district court of Travis County, or in the

county in which the property is located, a suit to obtain either a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove or prevent any improvement, maintenance, obstruction, barrier, or other encroachment on a public beach, or to prohibit any unlawful restraint on the public's right of access to and use of a public beach or other activity that violates this chapter.

(a-1) A county attorney, district attorney, or criminal district attorney or the attorney general may not file a suit under Subsection (a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove a house from a public beach if:

(1) the line of vegetation establishing the boundary of the public beach moved as a result of a meteorological event that occurred before January 1, 2009;

(2) the house was located landward of the natural line of vegetation before the meteorological event;

(3) a portion of the house continues to be located landward of the line of vegetation; and

(4) the house is located on a peninsula in a county with a population of more than 250,000 and less than 251,000 that borders the Gulf of Mexico.

(a-2) The owner of a house described by Subsection (a-1) may repair or rebuild the house if the house was damaged or destroyed by the meteorological event.

(a-3) Notwithstanding Subsection (a-1), a county attorney, district attorney, or criminal district attorney or the attorney general may file a suit under Subsection (a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove a house described by Subsection (a-1) from a public beach if the house was damaged or destroyed by the meteorological event and the owner of the house fails to repair or rebuild the house before September 1, 2013.

SECTION 2. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.135 to read as follows:

Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a) If a qualified residential structure for which the owner receives an exemption under Section 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land if the owner does not establish a different principal residence for which the owner receives an exemption under Section 11.13 during that period and intends to return and occupy the structure as the owner's principal residence. To continue to receive the exemption, the owner must begin active construction of the replacement qualified residential structure or other physical preparation of the site on which the structure is to be located not later than the first anniversary of the date the owner ceases to occupy the former

qualified residential structure as the owner's principal residence. The owner may not receive the exemption for that property under the circumstances described by this subsection for more than two years.

(b) For purposes of Subsection (a), the site of a replacement qualified residential structure is under physical preparation if the owner has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the structure or has conducted an environmental or land use study relating to the construction of the structure.

(c) If an owner receives an exemption for property under Section 11.13 under the circumstances described by Subsection (a) and sells the property before the owner completes construction of a replacement qualified residential structure on the property, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the years in which the owner received the exemption and the tax that would have been imposed had the owner not received the exemption in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(d) A tax lien attaches to property on the date a sale under the circumstances described by Subsection (c) occurs to secure payment of the additional tax and interest imposed by that subsection and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(e) A determination that a sale of property under the circumstances described by Subsection (c) has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the property as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the property.

(f) The sanctions provided by Subsection (c) do not apply if the sale is:

(1) for right-of-way; or

(2) to this state or a political subdivision of this state to be used for a public purpose.

(g) The comptroller shall adopt rules and forms to implement this section.

SECTION 3. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.231 to read as follows:

Sec. 11.231. NONPROFIT COMMUNITY BUSINESS ORGANIZATION PROVIDING ECONOMIC DEVELOPMENT SERVICES TO LOCAL COMMUNITY. (a) In this section, "nonprofit community business organization" means an organization that meets the following requirements:

(1) the organization has been in existence for at least the preceding five years;

(2) the organization:

(A) is a nonprofit corporation organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or a nonprofit corporation formed under the Texas Nonprofit Corporation Law, as described by Section 1.008, Business Organizations Code;

(B) is a nonprofit organization described by Section 501(c)(6), Internal Revenue Code of 1986; and

(C) is not a statewide organization;

(3) for at least the preceding three years, the organization has maintained a dues-paying membership of at least 50 members; and

(4) the organization:

(A) has a board of directors elected by the members;

(B) does not compensate members of the board of directors for service on the board;

(C) with respect to its activities in this state, is engaged primarily in performing functions listed in Subsection (d);

(D) is primarily supported by membership dues and other income from activities substantially related to its primary functions; and

(E) is not, has not formed, and does not financially support a political committee as defined by Section 251.001, Election Code.

(b) An association that qualifies as a nonprofit community business organization as provided by this section is entitled to an exemption from taxation of:

(1) the buildings and tangible personal property that:

(A) are owned by the nonprofit community business organization;

and

(B) except as permitted by Subsection (c), are used exclusively by qualified nonprofit community business organizations to perform their primary functions; and

(2) the real property owned by the nonprofit community business organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation;

and

(ii) is designed and intended to be used exclusively by qualified nonprofit community business organizations; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by qualified nonprofit community business organizations.

(c) Use of exempt property by persons who are not nonprofit community business organizations qualified as provided by this section does not result in the loss of an exemption authorized by this section if the use is incidental to use by

qualified nonprofit community business organizations and limited to activities that benefit the beneficiaries of the nonprofit community business organizations that own or use the property.

(d) To qualify for an exemption under this section, a nonprofit community business organization must be engaged primarily in performing one or more of the following functions in the local community:

(1) promoting the common economic interests of commercial enterprises;

(2) improving the business conditions of one or more types of business;

or

(3) otherwise providing services to aid in economic development.

(e) In this section, "building" includes the land that is reasonably necessary for use of, access to, and ornamentation of the building.

(f) A property may not be exempted under Subsection (b)(2) for more than three years.

(g) For purposes of Subsection (b)(2), an incomplete improvement is under physical preparation if the nonprofit community business organization has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

SECTION 4. Section 11.26, Tax Code, is amended by adding Subsections (n) and (o) to read as follows:

(n) Notwithstanding Subsection (c), the limitation on tax increases required by this section does not expire if the owner of the structure qualifies for an exemption under Section 11.13 under the circumstances described by Section 11.135(a).

(o) Notwithstanding Subsections (a), (a-3), and (b), an improvement to property that would otherwise constitute an improvement under Subsection (b) is not treated as an improvement under that subsection if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement under Subsection (b), the replacement structure is considered to be an improvement under that subsection only if:

(1) the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred; or

(2) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

SECTION 5. Section 11.261, Tax Code, is amended by adding Subsections (l) and (m) to read as follows:

(l) Notwithstanding Subsection (d), a limitation on county, municipal, or junior college district tax increases provided by this section does not expire if the owner of the structure qualifies for an exemption under Section 11.13 under the circumstances described by Section 11.135(a).

(m) Notwithstanding Subsections (b) and (c), an improvement to property that would otherwise constitute an improvement under Subsection (c) is not treated as an improvement under that subsection if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement under Subsection (c), the replacement structure is considered to be an improvement under that subsection only if:

(1) the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred; or

(2) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

SECTION 6. Section 11.42(d), Tax Code, is amended to read as follows:

(d) A person who acquires property after January 1 of a tax year may receive an exemption authorized by Section 11.17, 11.18, 11.19, 11.20, 11.21, 11.23, 11.231, or 11.30 for the applicable portion of that tax year immediately on qualification for the exemption.

SECTION 7. Section 11.43(c), Tax Code, is amended to read as follows:

(c) An exemption provided by Section 11.13, 11.17, 11.18, 11.182, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(h), (j), or (j-1), 11.231, 11.29, 11.30, or 11.31, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e), the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes. However, the chief appraiser may require a person allowed one of the exemptions in a prior year to file a new application to confirm the person's current qualification for the exemption by delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exemption.

SECTION 8. Section 23.23(f), Tax Code, is amended to read as follows:

(f) Notwithstanding Subsections (a) and (e) and except as provided by Subdivision (2), an improvement to property that would otherwise constitute a new improvement is not treated as a new improvement if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind ~~[mold]~~ or water damage. For purposes of appraising the property under Subsection (a) in the tax year in which the structure would have constituted a new improvement:

(1) the appraised value the property would have had in the preceding tax ~~[last]~~ year if the casualty or damage had not occurred [in which the property was appraised for taxation before the casualty or damage occurred] is considered to be the appraised value of the property for that year, regardless of whether that

appraised value exceeds the actual appraised value of the property for that year as limited by Subsection (a) [last year in which the property was appraised for taxation for purposes of Subsection (a)(2)(A)]; and

(2) the replacement structure is considered to be a new improvement only if:

(A) the square footage of the replacement structure exceeds that of [to the extent it is a significant improvement over] the replaced structure as that structure existed before the casualty or damage occurred; or

(B) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

SECTION 9. This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 10. This Act takes effect January 1, 2010.

Representative D. Howard moved to adopt the conference committee report on **HB 770**.

The motion to adopt the conference committee report on **HB 770** prevailed by (Record 1676): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Callegari; Giddings; Miller, S.

HB 2531 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Chavez submitted the following conference committee report on **HB 2531**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2531** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro
Davis
Eltife

Chavez
Y. Davis
Herrero
Pitts

On the part of the senate

On the part of the house

HB 2531, A bill to be entitled An Act relating to a reporting requirement regarding the Texas emerging technology fund.

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

SECTION 1. Subchapter A, Chapter 490, Government Code, is amended by adding Section 490.005 to read as follows:

Sec. 490.005. ANNUAL REPORT. (a) Not later than January 1 of each year, the governor shall submit to the legislature and post on the office of the governor's Internet website a report that includes the following information regarding the fund for the preceding three state fiscal years:

(1) the total number and amount of awards made;
(2) the number and amount of awards made under Subchapters D, E, and F;

(3) the aggregate total of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under each of the subchapters listed in Subdivision (2);

(4) the name of each award recipient and the amount of the award made to the recipient; and

(5) a brief description of the equity position that the governor, on behalf of the state, may take in companies receiving awards and the names of the companies in which the state has taken an equity position.

(b) The annual report must also contain a brief description regarding:

(1) the intended outcomes of projects funded under Subchapter D during the preceding two state fiscal years; and

(2) the actual outcomes of all projects funded under Subchapter D during the fund's existence, including any financial impact on the state resulting from a liquidity event involving a company whose project was funded under that subchapter.

(c) The report may not include information that is made confidential by law.

SECTION 2. Not later than January 1, 2011, the governor shall submit the initial report required by Section 490.005, Government Code, as added by this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Chavez moved to adopt the conference committee report on **HB 2531**.

The motion to adopt the conference committee report on **HB 2531** prevailed by (Record 1677): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Anderson; Eiland; Hartnett; King, S.; McCall.

STATEMENT OF VOTE

When Record No. 1677 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

HR 2959 - ADOPTED (by Guillen)

The following privileged resolution was laid before the house:

HR 2959

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2374** (financial assistance by the Texas Water Development Board for the connection of residences in economically distressed areas to public water supply and sanitary sewer systems) to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill in SECTION 1 of the bill, in added Section 17.9225(c), Water Code, to read as follows:

If the board determines that a resident to whom assistance has been provided is ineligible to receive the assistance, the board may seek reimbursement from the resident.

Explanation: The addition of text is necessary to allow the Texas Water Development Board to recover funds provided to ineligible recipients of financial assistance.

HR 2959 was adopted by (Record 1678): 89 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bolton; Bonnen; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; England; Farabee; Farias; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Keffer; Kent; King, P.; King, T.; Legler; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Aycock; Berman; Branch; Brown, B.; Brown, F.; Button; Callegari; Christian; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Hilderbran; Hunter; Isett; Jackson; Jones; Kleinschmidt; Kolkhorst; Laubenberg; Lewis; Miller, D.; Miller, S.; Orr; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Taylor; Truitt; Weber; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Alvarado; Bohac; Dutton; Farrar; Harper-Brown; Hughes; King, S.; Madden; Otto.

STATEMENTS OF VOTE

When Record No. 1678 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

I was shown voting yes on Record No. 1678. I intended to vote no.

Bonnen

HB 2919 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative S. King submitted the following conference committee report on **HB 2919**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2919** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Fraser
Wentworth
Van de Putte
Uresti
Davis

S. King
Corte
McClendon
Isett

On the part of the senate

On the part of the house

HB 2919, A bill to be entitled An Act relating to the regulation of land use and the creation of regional military sustainability commissions to ensure compatible development with military installations in certain areas.

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

SECTION 1. Section 397.005, Local Government Code, is amended to read as follows:

Sec. 397.005. CONSULTATION WITH DEFENSE BASE AUTHORITIES: PROPOSED ORDINANCE, RULE, OR PLAN. (a) This subsection applies to a defense community other than a defense community described by Subsection (b). If a defense community determines that an ordinance, rule, or plan proposed by the community may impact a defense base or the military exercise or training activities connected to the base, the defense community shall seek comments and analysis from the defense base authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. The defense community shall consider and analyze the comments and analysis before making a final determination relating to the proposed ordinance, rule, or plan.

(b) This subsection applies only to a defense community that includes a municipality with a population of more than 110,000 located in a county with a population of less than 135,000 and that has not adopted airport zoning regulations under Chapter 241. A defense community that proposes to adopt or amend an ordinance, rule, or plan in an area located within eight miles of the boundary line of a defense base or the military exercise or training activities connected to the base shall seek comments and analysis from the defense base authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations.

(c) A defense community described by Subsection (b) shall consider and analyze any comments and analysis received from the defense base authorities under Subsection (b) before making a final determination relating to the proposed ordinance, rule, or plan. The defense community described by Subsection (b) may not make a final determination under this subsection until the 31st day after the date comments and analysis are requested under Subsection (b).

SECTION 2. Chapter 397, Local Government Code, is amended by adding Section 397.006 to read as follows:

Sec. 397.006. CONSULTATION WITH DEFENSE BASE AUTHORITIES: PROPOSED STRUCTURE. (a) This section applies only to a defense community that includes a municipality with a population of more than 110,000 located in a county with a population of less than 135,000 and that has not adopted airport zoning regulations under Chapter 241.

(b) On receipt of an application for a permit as described by Section 245.001 for a proposed structure in an area located within eight miles of the boundary line of a defense base or the military exercise or training activities connected to the base, the defense community reviewing the application shall seek comments and analysis from the defense base authorities concerning the compatibility of the proposed structure with base operations.

(c) The defense community shall consider and analyze any comments and analysis received from the defense base authorities under Subsection (b) before making a final determination relating to approval of the permit for the proposed structure. The defense community may not make a final determination under this subsection until the earlier of the date comments and analysis are received from the defense base authorities or the fifth business day after the date comments and analysis are requested under Subsection (b). In this subsection, "business day" means any day other than a Saturday, Sunday, or state or federal holiday.

(d) This section does not apply if a defense community is required to take immediate action on an application to protect the public health, safety, or welfare of residents of the defense community.

SECTION 3. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 397A to read as follows:

CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY
COMMISSIONS RELATING TO CERTAIN MILITARY INSTALLATIONS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 397A.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround military installations will be frequented for military, national security, and international training purposes by residents from many parts of the state, nation, and world;

(2) compatible development and use of those areas is of concern to the state and nation; and

(3) without adequate regulation, the areas will tend to become incompatible with military missions and will be used in ways that interfere with:

(A) the proper continued use of those areas as secure locations for military installations and missions; and

(B) the effective operation of the military installations and missions.

(b) The powers granted under this chapter are for the purposes of:

(1) promoting the public health, safety, and general welfare;

(2) protecting and preserving places and areas of military and national security importance and significance;

(3) protecting critical military missions and operations related to those missions; and

(4) ensuring state and national security.

(c) This chapter may not be interpreted to grant regulatory powers to administer Chapter 245 or to amend a protection or benefit provided by Chapter 245.

[Sections 397A.002-397A.050 reserved for expansion]

SUBCHAPTER B. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS IN POPULOUS AREAS

Sec. 397A.051. APPLICABILITY. (a) A regulation or compatible development standard adopted under this subchapter does not apply to:

(1) a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision;

(2) a tract of land in agricultural use;

(3) an activity or a structure or appurtenance on a tract of land in agricultural use; or

(4) an area designated as part of the commission's territory under Section 397A.052 that is subject to the jurisdiction of a regulatory agency as defined by Section 245.001, and that, on the effective date of the Act adding this chapter, is:

(A) within the boundaries of a project as defined by Section 245.001 and any revision to the project that has accrued rights under Chapter 245;

(B) the subject of a permit as defined by Section 245.001 issued by or a permit application filed with a regulatory agency as defined by Section 245.001; or

(C) subject to a plan for development or plat application filed with a regulatory agency as defined by Section 245.001.

(b) In this section:

(1) "Agricultural use" means use or activity involving agriculture.

(2) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a government program or normal crop or livestock rotation procedure; or

(E) engaging in wildlife management.

(c) A term used in this subchapter that is defined or used in Chapter 245 has the meaning assigned by Chapter 245.

Sec. 397A.052. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) A county with unincorporated area located within five miles of the boundary line of a military installation, and a municipality with a population of 1.1 million or more and with extraterritorial jurisdiction located within five miles of the boundary line of a military installation, each of which, with respect to the same military installation, constitutes a defense community as defined by Section 397.001, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this subchapter in an area that is located:

(1) in the same county as the active military installation; and

(2) in the extraterritorial jurisdiction of the municipality.

(b) Defense communities may not establish more than one commission in a county.

(c) Except as provided by Subsection (d), a commission's territory consists of the unincorporated area located within two miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(d) If a military installation is engaged in flight training at the time a commission is established under this section, the commission's territory consists of the unincorporated area located within three miles of the boundary line of the military installation.

(e) This subchapter shall be narrowly construed in conformity with the findings and purposes under Section 397A.001.

Sec. 397A.053. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory.

(b) The notice required by Subsection (a) must:

(1) state the date, time, and place for the public hearing;

(2) identify the boundaries of the proposed territory, including a map of the proposed territory; and

(3) provide a description of the proposed commission's functions.

Sec. 397A.054. MEMBERS OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The regional military sustainability commission is composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number, qualifications, and method of selecting members of a commission.

(c) A member of a commission may not be an elected official of a participating county or municipality.

Sec. 397A.055. COMMISSION REVIEW OF NEW PROJECTS. (a) In this section, "new project" means a project, as that term is defined by Section 245.001, for which an application for a permit that will establish a vesting date under Chapter 245 has not been submitted to a regulatory agency before the effective date of the Act adding this chapter. The term does not include a revision to a project commenced before the effective date of the Act adding this chapter.

(b) A regional military sustainability commission shall establish an advisory committee and appoint six members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established and three members must represent landowners in the area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 30th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission, if the fiscal impact is determinable based on the project description and other information provided by the developer.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

(e) On annexation of an area in the commission's territory for full or limited purposes by a municipality, the area is removed from the commission's territory. If the municipality disannexes the area, the area is included in the commission's territory.

Sec. 397A.056. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS. (a) Before exercising the duties described by Section 397A.055, a regional military sustainability commission shall recommend compatible development standards for the territory. The commission must consider, as part of the regional compatible development standards, standards required by the Federal Aviation Administration regulations for military installations that service aircraft and helicopters. The commission shall submit the proposed compatible development standards to the participating governmental entities for approval.

(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall:

(1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and

(2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory.

(c) The failure of notice to reach each property owner under Subsection (b) does not invalidate compatible development standards adopted under this section.

(d) The compatible development standards are final after approval by a majority vote of each participating governmental entity. Notice of the final compatible development standards must be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) The commission may include in the proposed compatible development standards a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) The commission may recommend amendments to approved compatible development standards. The participating governmental entities may approve the commission's proposed standards under procedures adopted by the entities.

Sec. 397A.057. COORDINATION WITH OTHER PLANS AND STUDIES. The compatible development standards and regulations adopted under this subchapter must be coordinated with:

(1) the county plan for growth and development of the participating county or a county located in the regional military sustainability commission's territory;

(2) the comprehensive plan of the participating municipality; and

(3) the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Sec. 397A.058. CONFLICT WITH OTHER LAWS. Except with respect to Chapter 245, if a regulation adopted under this subchapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Sec. 397A.059. FUNDS. (a) A participating governmental entity may appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes.

(b) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental entity, the state, the federal government, or any other source.

Sec. 397A.060. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a regional military sustainability commission:

(1) by a two-thirds vote of its governing body; and

(2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Sec. 397A.061. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A regional military sustainability commission that has territory around a military installation that is closed by the federal government and the regional compatible development standards for the commission's territory may continue in effect until the fourth anniversary of the date the military installation is closed.

Sec. 397A.062. JUDICIAL REVIEW OF COMMISSION OR GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision of this subchapter, a landowner aggrieved by a report submitted by the regional military sustainability commission or by a permit application decision of the participating governmental entity under this subchapter may appeal all or part of the report or permit application decision to a district court. The court may reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision that is appealed.

[Sections 397A.063-397A.100 reserved for expansion]

SUBCHAPTER C. REGIONAL MILITARY SUSTAINABILITY
COMMISSIONS IN LESS POPULOUS AREAS

Sec. 397A.101. APPLICABILITY. (a) A regulation or compatible development standard adopted under this subchapter does not apply to:

(1) an area located in a county with a population of less than 5,000 that is adjacent to an international border;

(2) a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision;

(3) a tract of land in agricultural use;

(4) an activity or a structure or appurtenance on a tract of land in agricultural use; or

(5) any activity or a project, as that term is defined by Section 245.001, that is:

(A) occurring or in existence on the effective date of the Act adding this chapter; or

(B) receiving the benefits of or protected under Chapter 245.

(b) In this section, "agricultural use" and "agriculture" have the meanings assigned by Section 397A.051.

Sec. 397A.102. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) A county with a population of 60,000 or less and a municipality that, with respect to the same active military installation, constitutes a defense community, as defined by Section 397.001, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this subchapter in an area that is located:

- (1) in the same county as the active military installation; and
- (2) in the extraterritorial jurisdiction of the municipality.

(b) Defense communities may not establish more than one commission in a county.

(c) A commission's territory consists of the unincorporated area located within five miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(d) This subchapter shall be narrowly construed in conformity with the findings and purposes under Section 397A.001.

Sec. 397A.103. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory.

(b) The notice required by Subsection (a) must:

- (1) state the date, time, and place for the public hearing;
- (2) identify the boundaries of the proposed territory, including a map of the proposed territory; and
- (3) provide a description of the proposed commission's functions.

Sec. 397A.104. MEMBERS OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The regional military sustainability commission is composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number, qualifications, and method of selecting members of a commission.

(c) A member of a commission may not be an elected official of a participating county or municipality.

Sec. 397A.105. COMMISSION REVIEW OF NEW PROJECTS. (a) In this section, "new project" means a project, as that term is defined by Section 245.001, for which an application for a permit that will establish a vesting date under Chapter 245 has not been submitted to a regulatory agency before the effective date of the Act adding this chapter, including a water contract, sewer contract, or master plan.

(b) A regional military sustainability commission shall establish an advisory committee and appoint six members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established and three members must represent landowners in the

area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 15th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission as part of the report.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

(e) On annexation of an area in the commission's territory for full or limited purposes by a municipality, the area is removed from the commission's territory. If the municipality disannexes the area, the area is included in the commission's territory.

Sec. 397A.106. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS. (a) Before exercising the duties described by Section 397A.105, a regional military sustainability commission shall recommend compatible development standards for the territory. The commission must consider, as part of the regional compatible development standards, the Federal Aviation Administration regulations regarding height restrictions surrounding a military installation that services aircraft and helicopters. The commission shall submit the proposed compatible development standards to the participating governmental entities for approval.

(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall:

(1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and

(2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory.

(c) The failure of notice to reach each property owner under Subsection (b) does not invalidate compatible development standards adopted under this section.

(d) The compatible development standards are final after approval by a majority vote of each participating governmental entity. Notice of the final compatible development standards must be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) The commission may include in the proposed compatible development standards a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) The commission may recommend amendments to approved compatible development standards. The participating governmental entities may approve the commission's proposed standards under procedures adopted by the entities.

Sec. 397A.107. COORDINATION WITH OTHER PLANS AND STUDIES. The compatible development standards and regulations adopted under this subchapter must be coordinated with:

(1) the county plan for growth and development of the participating county or a county located in the regional military sustainability commission's territory;

(2) the comprehensive plan of the participating municipality; and

(3) the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Sec. 397A.108. CONFLICT WITH OTHER LAWS. Except with respect to Chapter 245, if a regulation adopted under this subchapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Sec. 397A.109. FUNDS. (a) A participating governmental entity may appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes.

(b) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental entity, the state, the federal government, or any other source.

Sec. 397A.110. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a regional military sustainability commission:

(1) by a two-thirds vote of its governing body; and

(2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Sec. 397A.111. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A regional military sustainability commission that has territory around a military installation that is closed by the federal government and the regional compatible development standards for the commission's territory may continue in effect until the fourth anniversary of the date the military installation is closed.

Sec. 397A.112. JUDICIAL REVIEW OF COMMISSION OR GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision of this subchapter, a landowner aggrieved by a report submitted by the regional military sustainability commission or by a permit application decision of the participating governmental entity under this subchapter may appeal all or part of the report or permit application decision to a district court, county court, or county court at law. The court may reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision that is appealed.

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, 2009.

Representative S. King moved to adopt the conference committee report on **HB 2919**.

The motion to adopt the conference committee report on **HB 2919** prevailed by (Record 1679): 134 Yeas, 5 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Harcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Aycock; Gattis; Kolkhorst; Riddle; Sheffield.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Callegari; Craddick; Dutton; Farrar; Isett; Miller, S.; Olivo; Otto.

STATEMENT OF VOTE

When Record No. 1679 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List Nos. 47 and 48).

HB 3221 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Taylor submitted the following conference committee report on **HB 3221**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3221** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte
Harris
Watson

Hancock
Eiland
Smithee
Martinez Fischer
Taylor

On the part of the senate

On the part of the house

HB 3221, A bill to be entitled An Act relating to required notification before automatic premium payments may be increased.

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

SECTION 1. Section 550.002, Insurance Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows:

(b) An insurer receiving automatic premium payments through withdrawal of funds from a person's account, including an escrow account, as authorized by that person to pay premiums on insurance coverage provided through that insurer, may not increase the amount of funds to be withdrawn from the account to pay premiums on that coverage unless[+:

[(+)] the insurer, not later than the 30th day before the effective date of the increase in the premium payment amount, notifies the person of the increase by mailing a notice through the United States Postal Service.

(b-1) The notice must include the insurer's toll-free telephone number, mailing address, and electronic mail address, if applicable, through which the [and provides the] person [a postage prepaid form that] may [be used to] object to the increase described by Subsection (b). An objection made by the policyholder through a telephone call, mail, or electronic mail constitutes a valid objection for purposes of this section.

(b-2) The insurer may increase the amount of funds to be withdrawn from the account only if[; and

~~[(2) neither]~~ the insurer does not receive a valid ~~[nor the financial institution receives written]~~ objection to the increase on or before the fifth day before the date on which the increase is scheduled to take ~~[takes]~~ effect.

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, 2009.

Representative Taylor moved to adopt the conference committee report on **HB 3221**.

The motion to adopt the conference committee report on **HB 3221** prevailed by (Record 1680): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Dutton; Farrar; Harper-Brown; Hartnett; McReynolds.

HB 3676 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Heflin submitted the following conference committee report on **HB 3676**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3676** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger

Shapleigh

Eltife

Watson

Shapiro

On the part of the senate

Heflin

Swinford

Oliveira

Hartnett

Ritter

On the part of the house

HB 3676, A bill to be entitled An Act relating to the Texas Economic Development Act.

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

SECTION 1. Section 313.007, Tax Code, is amended to read as follows:

Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire December 31, 2014 [~~2011~~].

SECTION 2. Section 313.021, Tax Code, is amended to read as follows:

Sec. 313.021. DEFINITIONS. In this subchapter:

(1) "Qualified investment" means:

(A) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

(B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:

(i) integrated systems, fixtures, and piping;

(ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances; and

(iii) production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting;

(C) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the operation of a nuclear electric power generation facility, including:

(i) property, including pressure vessels, pumps, turbines, generators, and condensers, used to produce nuclear electric power; and

(ii) property and systems necessary to control radioactive contamination;

(D) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an integrated gasification combined cycle electric generation facility, including:

(i) property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock; or

(ii) property used in handling materials to be used as feedstock for gasification or used in the gasification process to produce synthetic gas or another carbon-based feedstock for use in the production of electric power in the manner described by Subparagraph (i); ~~or~~

(E) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2010, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an advanced clean energy project, as defined by Section 382.003, Health and Safety Code; or

(F) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A), (B), (C), ~~or~~ (D), or (E).

(2) "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person ~~owner~~ applies for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and

(b) create at least 25 new jobs;

(B) the new building or other new improvement described by Paragraph (A)(ii); and

(C) tangible personal property that:

(i) is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(ii) except for new equipment described in Section 151.318(q) or (q-1), is first placed in service in the new building or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new

building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

(3) "Qualifying job" means a permanent full-time job that:

(A) requires at least 1,600 hours of work a year;

(B) is not transferred from one area in this state to another area in this state;

(C) is not created to replace a previous employee;

(D) is covered by a group health benefit plan~~[, as defined by Section 481.151, Government Code,]~~ for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and

(E) pays at least 110 percent of:

(i) the county average weekly wage for manufacturing jobs in the county where the job is located; or

(ii) the county average weekly wage for all jobs in the county where the job is located, if the property owner creates more than 1,000 jobs in that county.

(4) "Qualifying time period" means:

(A) the period that begins on the date that a person's application for a limitation on appraised value under this subchapter is approved by the governing body of the school district and ends on December 31 of the second tax year that begins after that date ~~[first two tax years that begin on or after the date a person's application for a limitation on appraised value under this subchapter is approved]~~, except as provided by Paragraph (B) or (C) of this subdivision or Section 313.027(h); ~~or~~

(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner; or

(C) in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

(5) "County average weekly wage for manufacturing jobs" means:

(A) the average weekly wage in a county for manufacturing jobs during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission; or

(B) the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government

Code, in which the county is located during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission.

SECTION 3. Section 313.024(b), Tax Code, is amended to read as follows:

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property in connection with:

- (1) manufacturing;
- (2) research and development;
- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code;
- (5) renewable energy electric generation;
- (6) electric power generation using integrated gasification combined cycle technology; ~~or~~
- (7) nuclear electric power generation; or
- (8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity.

SECTION 4. Section 313.024(e), Tax Code, is amended by amending Subdivision (1) and adding Subdivisions (5) and (6) to read as follows:

(1) "Manufacturing" means an establishment primarily engaged in activities described in sectors 31-33 of the 2007 North American Industry Classification System ~~[and "research and development" have the meanings assigned by Section 171.751].~~

(5) "Research and development" means an establishment primarily engaged in activities described in category 541710 of the 2002 North American Industry Classification System.

(6) "Computer center" means an establishment primarily engaged in providing electronic data processing and information storage.

SECTION 5. Section 313.025, Tax Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (a-1), (d-1), (h), and (i) to read as follows:

(a) The owner or lessee of, or the holder of another possessory interest in, any qualified property described by Section 313.021(2)(A), (B), or (C) may apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property. An application must be made on the form prescribed by the comptroller and include the information required by the comptroller, and it must be accompanied by:

(1) the application fee established by the governing body of the school district;

(2) information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by Section 313.021(2); and

(3) information relating to each applicable criterion listed in Section 313.026.

(a-1) Within seven days of the receipt of each document, the school district shall submit to the comptroller a copy of the application and the agreement between the applicant and the school district. If an economic analysis of the proposed project is submitted to the school district, the district shall submit a copy of the analysis to the comptroller. In addition, the school district shall submit to the comptroller any subsequent revision of or amendment to any of those documents within seven days of its receipt. The comptroller shall publish each document received from the school district under this subsection on the comptroller's Internet website. If the school district maintains a generally accessible Internet website, the district shall provide on its website a link to the location of those documents posted on the comptroller's website in compliance with this subsection. This subsection does not require the comptroller to post information that is confidential under Section 313.028.

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value that is filed with the governing body under Subsection (a). If the governing body of the school district does elect to consider an application, the governing body shall deliver three copies of the application to the comptroller and request that the comptroller provide an economic impact evaluation of the application to the school district. Except as provided by Subsection (b-1), the comptroller shall conduct or contract with a third person to conduct the evaluation, which shall be completed and provided to the governing body of the school district as soon as practicable. The governing body shall provide to the comptroller or third person any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the evaluation to the applicant on request. The comptroller may charge and collect a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application before the 151st [~~121st~~] day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(d) Before the 91st [~~61st~~] day after the date the comptroller receives the copy of the application, the comptroller shall submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

(d-1) The governing body of a school district may approve an application that the comptroller has recommended should be disapproved only if:

(1) the governing body holds a public hearing the sole purpose of which is to consider the application and the comptroller's recommendation; and

(2) at a subsequent meeting of the governing body held after the date of the public hearing, at least two-thirds of the members of the governing body vote to approve the application.

(h) After receiving a copy of the application, the comptroller shall determine whether the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under this subchapter. The

comptroller shall notify the governing body of the school district of the comptroller's determination and provide the applicant an opportunity for a hearing before the determination becomes final. A hearing under this subsection is a contested case hearing and shall be conducted by the State Office of Administrative Hearings in the manner provided by Section 2003.101, Government Code. The applicant has the burden of proof on each issue in the hearing. The applicant may seek judicial review of the comptroller's determination in a Travis County district court under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.

(i) If the comptroller's determination under Subsection (h) that the property does not meet the requirements of Section 313.024 for eligibility for a limitation on appraised value under this subchapter becomes final, the comptroller is not required to provide an economic impact evaluation of the application or to submit a recommendation to the school district as to whether the application should be approved or disapproved, and the governing body of the school district may not grant the application.

SECTION 6. Sections 313.026(a) and (b), Tax Code, are amended to read as follows:

(a) The economic impact evaluation of the application must include the following:

- (1) the recommendations of the comptroller;
- (2) the name of the school district;
- (3) the name of the applicant;
- (4) the general nature of the applicant's investment;
- (5) [~~2~~] the relationship between the applicant's industry and the types of qualifying jobs to be created by the applicant to the long-term economic growth plans of this state as described in the strategic plan for economic development submitted by the Texas Strategic Economic Development Planning Commission under Section 481.033, Government Code, as that section existed before February 1, 1999;
- (6) [~~3~~] the relative level of the applicant's investment per qualifying job to be created by the applicant;
- (7) the number of qualifying jobs to be created by the applicant;
- (8) [~~4~~] the wages, salaries, and benefits to be offered by the applicant to qualifying job holders;
- (9) [~~5~~] the ability of the applicant to locate or relocate in another state or another region of this state;
- (10) [~~6~~] the impact the project [~~added infrastructure~~] will have on this state and individual local units of government [~~the region~~], including:
 - (A) tax and other revenue gains, direct or indirect, that would be realized during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller [~~by the school district~~]; and

(B) ~~subsequent~~ economic effects of the project, including the impact on jobs and income, during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller ~~[on the local and regional tax bases];~~

(11) ~~(7)~~ the economic condition of the region of the state at the time the person's application is being considered;

(12) ~~(8)~~ the number of new facilities built or expanded in the region during the two years preceding the date of the application that were eligible to apply for a limitation on appraised value under this subchapter; ~~and~~

(13) ~~(9)~~ the effect of the applicant's proposal, if approved, on the number or size of the school district's instructional facilities, as defined by Section 46.001, Education Code;

(14) the projected market value of the qualified property of the applicant as determined by the comptroller;

(15) the proposed limitation on appraised value for the qualified property of the applicant;

(16) the projected dollar amount of the taxes that would be imposed on the qualified property, for each year of the agreement, if the property does not receive a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment and projected tax rates clearly stated;

(17) the projected dollar amount of the taxes that would be imposed on the qualified property, for each tax year of the agreement, if the property receives a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment clearly stated;

(18) the projected effect on the Foundation School Program of payments to the district for each year of the agreement;

(19) the projected future tax credits if the applicant also applies for school tax credits under Section 313.103; and

(20) the total amount of taxes projected to be lost or gained by the district over the life of the agreement computed by subtracting the projected taxes stated in Subdivision (17) from the projected taxes stated in Subdivision (16).

(b) The comptroller's recommendations shall be based on the criteria listed in Subsections (a)(5)-(20) ~~(a)(2)-(9)~~ and on any other information available to the comptroller, including information provided by the governing body of the school district under Section 313.025(b).

SECTION 7. Subchapter B, Chapter 313, Tax Code, is amended by adding Section 313.0265 to read as follows:

Sec. 313.0265. DISCLOSURE OF APPRAISED VALUE LIMITATION INFORMATION. (a) The comptroller shall post on the comptroller's Internet website each document or item of information the comptroller designates as substantive before the 15th day after the date the document or item of information was received or created. Each document or item of information must continue to be posted until the appraised value limitation expires.

(b) The comptroller shall designate the following as substantive:

(1) each application requesting a limitation on appraised value;

(2) the economic impact evaluation made in connection with the application; and

(3) each application requesting school tax credits under Section 313.103.

(c) If a school district maintains a generally accessible Internet website, the district shall maintain a link on its Internet website to the area of the comptroller's Internet website where information on each of the district's agreements to limit appraised value is maintained.

SECTION 8. Section 313.027, Tax Code, is amended by amending Subsection (f) and adding Subsections (h) and (i) to read as follows:

(f) In addition, the agreement:

(1) must incorporate each relevant provision of this subchapter and, to the extent necessary, include provisions for the protection of future school district revenues through the adjustment of the minimum valuations, the payment of revenue offsets, and other mechanisms agreed to by the property owner and the school district;

(2) may provide that the property owner will protect the school district in the event the district incurs extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project;

(3) must require the property owner to maintain a viable presence in the school district for at least three years after the date the limitation on appraised value of the owner's property expires;

(4) ~~[(3)]~~ must provide for the termination of the agreement, the recapture of ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to comply with the terms of the agreement, and payment of a penalty or interest, or both, on that recaptured ad valorem tax revenue;

(5) ~~[(4)]~~ may specify any conditions the occurrence of which will require the district and the property owner to renegotiate all or any part of the agreement; and

(6) ~~[(5)]~~ must specify the ad valorem tax years covered by the agreement.

(h) The agreement between the governing body of the school district and the applicant may provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral. This subsection may not be construed to permit a qualifying time period that has commenced to continue for more than the number of years applicable to the project under Section 313.021(4).

(i) A person and the school district may not enter into an agreement under which the person agrees to provide supplemental payments to a school district in an amount that exceeds an amount equal to \$100 per student per year in average daily attendance, as defined by Section 42.005, Education Code, or for a period that exceeds the period beginning with the period described by Section

313.021(4) and ending with the period described by Section 313.104(2)(B) of this code. This limit does not apply to amounts described by Subsection (f)(1) or (2) of this section.

SECTION 9. Subchapter B, Chapter 313, Tax Code, is amended by adding Section 313.0275 to read as follows:

Sec. 313.0275. RECAPTURE OF AD VALOREM TAX REVENUE LOST.

(a) Notwithstanding any other provision of this chapter to the contrary, a person with whom a school district enters into an agreement under this subchapter must make the minimum amount of qualified investment during the qualifying time period and create the required number of qualifying jobs during each year of the agreement.

(b) If in any tax year a property owner fails to comply with Subsection (a), the property owner is liable to this state for a penalty equal to the amount computed by subtracting from the market value of the property for that tax year the value of the property as limited by the agreement and multiplying the difference by the maintenance and operations tax rate of the school district for that tax year.

(c) A penalty imposed under Subsection (b) becomes delinquent if not paid on or before February 1 of the following tax year. Section 33.01 applies to the delinquent penalty in the manner that section applies to delinquent taxes.

SECTION 10. Section 313.028, Tax Code, is amended to read as follows:

Sec. 313.028. CERTAIN BUSINESS INFORMATION CONFIDENTIAL.

Information provided to a school district in connection with an application for a limitation on appraised value under this subchapter that describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application shall be segregated in the application from other information in the application and is confidential and not subject to public disclosure unless the governing body of the school district approves the application. Other information in the custody of a school district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility under this chapter, such as the nature and amount of the projected investment, employment, wages, and benefits, may not be considered confidential business information if the governing body of the school district agrees to consider the application. Information in the custody of a school district or the comptroller if the governing body approves the application is not confidential under this section.

SECTION 11. Section 313.051(a), Tax Code, is amended to read as follows:

(a) This subchapter applies only to a school district that has territory in:

(1) an area that qualified as a strategic investment area under Subchapter O, Chapter 171, immediately before that subchapter expired [~~as defined by Section 171.721~~]; or

(2) a county:

(A) that has a population of less than 50,000; and

(B) ~~[that is not partially or wholly located in a metropolitan statistical area; and~~

~~[(C)]~~ in which, from 1990 to 2000, according to the federal decennial census, the population:

(i) remained the same;

(ii) decreased; or

(iii) increased, but at a rate of not more than three percent per annum.

SECTION 12. Sections 313.103 and 313.104, Tax Code, are amended to read as follows:

Sec. 313.103. APPLICATION. (a) An application for a tax credit under this subchapter must be made to the governing body of the school district to which the ad valorem taxes were paid. The application must be:

(1) made on the form prescribed for that purpose by the comptroller and verified by the applicant; and

(2) accompanied by:

(A) a tax receipt from the collector of taxes for the school district showing full payment of school district ad valorem taxes on the qualified property for the applicable qualifying time period; and

(B) any other document or information that the comptroller or the governing body considers necessary for a determination of the applicant's eligibility for the credit or the amount of the credit; ~~and~~

~~[(3) filed before September 1 of the year immediately following the applicable qualifying time period].~~

(b) An application for a tax credit under this subchapter or any information provided by the school district to the Texas Education Agency under Section 42.2515, Education Code, is not confidential.

Sec. 313.104. ACTION ON APPLICATION; GRANT OF CREDIT. Before granting ~~[the 90th day after the date]~~ the application for a tax credit ~~[is filed]~~, the governing body of the school district shall:

(1) determine the person's eligibility for a tax credit under this subchapter; and

(2) if the person's application is approved, by order or resolution direct the collector of taxes for the school district:

(A) in the second and subsequent six tax years that begin after the date the application is approved, to credit against the taxes imposed on the qualified property by the district in that year an amount equal to one-seventh of the total amount of tax credit to which the person is entitled under Section 313.102, except that the amount of a credit granted in any of those tax years may not exceed 50 percent of the total amount of ad valorem school taxes imposed on the qualified property by the school district in that tax year; and

(B) in the first three tax years that begin on or after the date the person's eligibility for the limitation under Subchapter B or C expires, to credit against the taxes imposed on the qualified property by the district an amount equal to the portion of the total amount of tax credit to which the person is entitled under Section 313.102 that was not credited against the person's taxes

under Paragraph (A) in a tax year covered by Paragraph (A), except that the amount of a tax credit granted under this paragraph in any tax year may not exceed the total amount of ad valorem school taxes imposed on the qualified property by the school district in that tax year.

SECTION 13. Section 403.302, Government Code, is amended by amending Subsection (d) and adding Subsection (m) to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;

(6) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(7) the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

(8) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(9) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(10) a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code, before the expiration of the subchapter;

(11) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(12) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(13) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(14) the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(m) Subsection (d)(10) does not apply to property that was the subject of an application under Subchapter B or C, Chapter 313, Tax Code, made after May 1, 2009, that the comptroller recommended should be disapproved.

SECTION 14. Section 313.029, Tax Code, is repealed.

SECTION 15. Sections 313.021(1)(A), (2), and (5), 313.024(e), and 313.025(a), Tax Code, as amended by this Act, are intended to clarify rather than change existing law. The clarification made by Section 313.021(5), Tax Code, as amended by this Act, is necessary to allow the Texas Workforce Commission to implement that subdivision in conformance with the data collection requirements imposed by the federal government.

SECTION 16. The Legislative Budget Board shall conduct an effectiveness and efficiency review of the economic development program established under Chapter 313, Tax Code, and report the results of the review to the legislature not later than January 1, 2011.

SECTION 17. (a) Except as provided by Subsection (b) of this section:

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

(2) if this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

(b) Sections 313.025(a-1), (h), and (i) and 313.0265, Tax Code, as added by this Act, take effect January 1, 2010.

HB 3676 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE KOLKHORST: Mr. Heflin, one of the provisions we worked on together, and that is included in this bill, limits the amount of revenue a school district may receive from the payments in lieu of taxes, also known as PILTS or PILOTS, and as a part of that limitation, an agreement to \$100 per student in average daily attendance per year. In practice, there may be several means by which a school district may receive these PILOTS, including their school foundations—maybe the booster clubs—in different ways. Is it your intent that the \$100 limit on ADA apply to all of these entities as well?

REPRESENTATIVE HEFLIN: Yes, we intend this limit to apply to all payments specified in the agreement that are made for the benefit of the school district, regardless of the organization of the entities involved in the agreement. We ask that this be reflected in any rules the comptroller may adopt in administering this provision.

KOLKHORST: Under the reporting provisions of this bill, will the state be aware of the PILOTS specified in an agreement, including those made separately to organized foundations?

HEFLIN: Yes. Under the terms of the bill, all amounts will be reported to the Comptroller of Public Accounts.

KOLKHORST: In the event that supplemental payments over the next two years are found to violate this provision, will you support me in passing legislation next session to recapture this foundation revenue with no grandfather provision?

HEFLIN: Yes, I will.

REMARKS ORDERED PRINTED

Representative Kolkhorst moved to print remarks between Representative Heflin and Representative Kolkhorst.

The motion prevailed.

Representative Heflin moved to adopt the conference committee report on **HB 3676**.

The motion to adopt the conference committee report on **HB 3676** prevailed by (Record 1681): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — McReynolds.

HB 3689 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McClendon submitted the following conference committee report on **HB 3689**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3689** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa

Hegar

West

Ogden

Whitmire

On the part of the senate

McClendon

McReynolds

Madden

Hodge

Kolkhorst

On the part of the house

HB 3689, A bill to be entitled An Act relating to the functions and continuation of the Texas Youth Commission and the Texas Juvenile Probation Commission and to the functions of the Office of Independent Ombudsman for the Texas Youth Commission.

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

ARTICLE 1. TEXAS YOUTH COMMISSION

SECTION 1.001. The heading to Chapter 61, Human Resources Code, is amended to read as follows:

CHAPTER 61. TEXAS YOUTH COMMISSION [~~COUNCIL~~]

SECTION 1.002. Section 61.001, Human Resources Code, is amended by adding Subdivision (3) to read as follows:

(3) "Board" means the board of the commission appointed under Section 61.024.

SECTION 1.003. Section 61.020, Human Resources Code, is amended to read as follows:

Sec. 61.020. SUNSET PROVISION. (a) The Texas Youth Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011 [~~2009~~].

(b) In the review of the Texas Youth Commission by the Sunset Advisory Commission, as required by this section, the sunset commission shall focus its review on:

(1) the commission's compliance with Chapter 263 (SB 103), Acts of the 80th Legislature, Regular Session, 2007;

(2) requirements placed on the agency by legislation enacted by the 81st Legislature, Regular Session, 2009, that becomes law, including implementation of programs for the diversion of youth from the commission; and

(3) initiatives of the commission and the Texas Juvenile Probation Commission in coordinating activities and services to better integrate Texas Youth Commission, Texas Juvenile Probation Commission, and county juvenile justice functions, including joint strategic planning, the sharing of youth data across youth-serving agencies, assessments and classification of youth, and collection of data on probation outcomes.

(c) In its report to the 82nd Legislature, the sunset commission may include any recommendations it considers appropriate. This subsection and Subsection (b) expire September 1, 2011.

SECTION 1.004. Section 61.024(a), Human Resources Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, effective September 1, 2009, the commission is governed by a board that consists of seven members appointed by the governor with the advice and consent of the senate. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

SECTION 1.005. Subchapter B, Chapter 61, Human Resources Code, is amended by adding Sections 61.025 through 61.029 to read as follows:

Sec. 61.025. RESTRICTIONS ON BOARD MEMBERSHIP AND EMPLOYMENT. (a) A person may not be a member of the board or employed by the board as the executive director if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of criminal or juvenile justice;

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

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

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

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

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal or juvenile justice; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal or juvenile justice.

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

(d) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Sec. 61.026. REMOVAL OF BOARD MEMBERS. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 61.024(b);

(2) does not maintain during service on the board the qualifications required by Section 61.024(b);

(3) is ineligible for membership under Section 61.025;

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

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

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

Sec. 61.027. TRAINING FOR BOARD MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

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

(1) the legislation that created the commission;

(2) the programs, functions, rules, and budget of the commission;

(3) the results of the most recent formal audit of the commission;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

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

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 61.028. USE OF TECHNOLOGY. The board shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Sec. 61.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

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

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

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

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

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

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

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

SECTION 1.006. Section 61.0352, Human Resources Code, is amended to read as follows:

Sec. 61.0352. DIVISION OF RESPONSIBILITY. The board ~~[executive commissioner]~~ shall develop and implement policies that clearly separate the policymaking responsibilities of the board ~~[executive commissioner]~~ and the management responsibilities of the staff of the commission.

SECTION 1.007. Section 61.0422, Human Resources Code, is amended to read as follows:

Sec. 61.0422. COMPLAINTS REGARDING SERVICES. (a) The commission shall maintain a system to promptly and efficiently act on a ~~[keep a file about each written]~~ complaint filed with the commission by a person, other than a child receiving services from the commission or the child's parent or guardian, that the commission has authority to resolve. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) The commission shall make information available describing the commission's ~~[provide to the person filing the complaint and the persons or entities complained about the commission's policies and]~~ procedures for ~~[pertaining to]~~ complaint investigation and resolution.

(c) The commission ~~[at least quarterly and until final disposition of the complaint,]~~ shall periodically notify the ~~[person filing the]~~ complaint parties ~~[and the persons or entities complained about]~~ of the status of the complaint until final disposition, unless the notice would jeopardize an undercover investigation.

(d) ~~(b)~~ The commission shall keep information about each file required by Subsection (a). The information must include:

~~(1) the date the complaint is received;~~

~~(2) the name of the complainant;~~

~~(3) the subject matter of the complaint;~~

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

~~(5) a summary of the results of the review or investigation of the~~

complaint; and

~~[(6) for complaints for which the commission took no action, an explanation of the reason the complaint was closed without action.~~

~~[(e)]~~ The commission shall keep information about each written complaint filed with the commission by a child receiving services from the commission or the child's parent or guardian. The information must include:

- (1) the subject matter of the complaint;
- (2) a summary of the results of the review or investigation of the complaint; and
- (3) the period of time between the date the complaint is received and the date the complaint is closed.

SECTION 1.008. Section 61.0423, Human Resources Code, is amended to read as follows:

Sec. 61.0423. PUBLIC HEARINGS. (a) The board ~~[executive commissioner]~~ shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board ~~[executive commissioner or the executive commissioner's designee]~~ and to speak on any issue under the jurisdiction of the commission.

(b) The board ~~[executive commissioner]~~ shall ensure that the location of public hearings held in accordance with this section is rotated between municipalities in which a commission facility is located or that are in proximity to a commission facility.

SECTION 1.009. Sections 61.0451(a) and (i), Human Resources Code, are amended to read as follows:

(a) The office of inspector general is established at the commission for the purpose of investigating:

- (1) crimes committed by commission employees, including parole officers employed by or under a contract with the commission; and
- (2) crimes and delinquent conduct committed at a facility operated by the commission, ~~[or at]~~ a residential facility operated by another entity under a contract with the commission, or any facility in which a child committed to the custody of the commission is housed or receives medical or mental health treatment.

(i) The office of inspector general shall immediately report to the executive director ~~[commissioner]~~, the ~~[advisory]~~ board, the governor's general counsel, and the state auditor:

- (1) any particularly serious or flagrant problem concerning the administration of a commission program or operation; or
- (2) any interference by the executive director, [commissioner or] an employee of the commission, a facility described by Subsection (a)(2), or an officer or employee of a facility described by Subsection (a)(2) with an investigation conducted by the office.

SECTION 1.010. Subchapter D, Chapter 61, Human Resources Code, is amended by adding Section 61.067 to read as follows:

Sec. 61.067. INFORMATION PROVIDED TO COMMITTING COURT.

(a) If a court that commits a child to the commission requests, in the commitment order, that the commission keep the court informed of the progress the child is making while committed to the commission, the commission shall provide the court with periodic updates on the child's progress.

(b) A report provided under Subsection (a) may include any information the commission determines to be relevant in evaluating the child's progress, including, as applicable, information concerning the child's treatment, education, and health.

(c) A report provided under this section may not include information that is protected from disclosure under state or federal law.

SECTION 1.011. Subchapter F, Chapter 61, Human Resources Code, is amended by adding Section 61.08131 to read as follows:

Sec. 61.08131. COMPREHENSIVE REENTRY AND REINTEGRATION PLAN FOR CHILDREN; STUDY AND REPORT. (a) The commission shall develop a comprehensive plan to reduce recidivism and ensure the successful reentry and reintegration of children into the community following a child's release under supervision or final discharge, as applicable, from the commission.

(b) The comprehensive reentry and reintegration plan developed under this section must provide for:

(1) an assessment of each child committed to the commission to determine which skills the child needs to develop to be successful in the community following release under supervision or final discharge;

(2) programs that address the assessed needs of each child;

(3) a comprehensive network of transition programs to address the needs of children released under supervision or finally discharged from the commission;

(4) the identification of providers of existing local programs and transitional services with whom the commission may contract under this section to implement the reentry and reintegration plan; and

(5) subject to Subsection (c), the sharing of information between local coordinators, persons with whom the commission contracts under this section, and other providers of services as necessary to adequately assess and address the needs of each child.

(c) A child's personal health information may be disclosed under Subsection (b)(5) only in the manner authorized by Section 61.0731 or other state or federal law, provided that the disclosure does not violate the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191).

(d) The programs provided under Subsections (b)(2) and (3) must:

(1) be implemented by highly skilled staff who are experienced in working with reentry and reintegration programs for children;

(2) provide children with:

(A) individualized case management and a full continuum of care;

(B) life-skills training, including information about budgeting, money management, nutrition, and exercise;

(C) education and, if a child has a learning disability, special education;

(D) employment training;

(E) appropriate treatment programs, including substance abuse and mental health treatment programs; and

(F) parenting and relationship-building classes; and

(3) be designed to build for children post-release and post-discharge support from the community into which the child is released under supervision or finally discharged, including support from agencies and organizations within that community.

(e) The commission may contract and coordinate with private vendors, units of local government, or other entities to implement the comprehensive reentry and reintegration plan developed under this section, including contracting to:

(1) coordinate the supervision and services provided to children during the time children are in the custody of the commission with any supervision or services provided children who have been released under supervision or finally discharged from the commission;

(2) provide children awaiting release under supervision or final discharge with documents that are necessary after release or discharge, including identification papers, medical prescriptions, job training certificates, and referrals to services; and

(3) provide housing and structured programs, including programs for recovering substance abusers, through which children are provided services immediately following release under supervision or final discharge.

(f) To ensure accountability, any contract entered into under this section must contain specific performance measures that the commission shall use to evaluate compliance with the terms of the contract.

(g) The commission shall ensure that each reentry and reintegration plan developed for a child under Section 61.0814 is coordinated with the comprehensive reentry and reintegration plan developed under this section.

(h) The commission shall conduct and coordinate research to determine whether the comprehensive reentry and reintegration plan developed under this section reduces recidivism rates.

(i) Not later than December 1 of each even-numbered year, the commission shall deliver a report of the results of research conducted or coordinated under Subsection (h) to the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with primary jurisdiction over juvenile justice and corrections.

SECTION 1.012. Subchapter F, Chapter 61, Human Resources Code, is amended by adding Section 61.08141 to read as follows:

Sec. 61.08141. INFORMATION PROVIDED TO COURT BEFORE RELEASE. (a) In addition to providing the court with notice of release of a child under Section 61.081(e), as soon as possible but not later than the 30th day before the date the commission releases the child, the commission shall provide the court that committed the child to the commission:

(1) a copy of the child's reentry and reintegration plan developed under Section 61.0814; and

(2) a report concerning the progress the child has made while committed to the commission.

(b) If, on release, the commission places a child in a county other than the county served by the court that committed the child to the commission, the commission shall provide the information described by Subsection (a) to both the committing court and the juvenile court in the county where the child is placed after release.

(c) If, on release, a child's residence is located in another state, the commission shall provide the information described by Subsection (a) to both the committing court and a juvenile court of the other state that has jurisdiction over the area in which the child's residence is located.

SECTION 1.013. Section 61.0911, Human Resources Code, is amended to read as follows:

Sec. 61.0911. COORDINATED STRATEGIC PLAN. The Texas Youth Commission shall biennially develop with the Texas Juvenile Probation Commission a coordinated strategic plan in the manner described by Sections ~~as required by Section~~ 141.0471 and 141.0472.

SECTION 1.014. Section 61.098(b), Human Resources Code, is amended to read as follows:

(b) As appropriate, the district attorney, criminal district attorney, or county attorney representing the state in criminal matters before the district or inferior courts of the county who would otherwise represent the state in the prosecution of an offense or delinquent conduct concerning the commission and described by Article 104.003(a), Code of Criminal Procedure, may request that the special prosecution unit prosecute, or assist in the prosecution of, the offense or delinquent conduct.

ARTICLE 2. OFFICE OF INDEPENDENT OMBUDSMAN FOR THE TEXAS YOUTH COMMISSION

SECTION 2.001. Section 64.054, Human Resources Code, is amended to read as follows:

Sec. 64.054. SUNSET PROVISION. (a) The office is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The office shall be reviewed during the periods in which the Texas Youth Commission is ~~[state agencies abolished in 2009 and every 12th year after 2009 are]~~ reviewed.

(b) Notwithstanding Subsection (a), the Sunset Advisory Commission shall focus its review of the office on compliance with requirements placed on the office by legislation enacted by the 81st Legislature, Regular Session, 2009, that becomes law. This subsection expires September 1, 2011.

SECTION 2.002. Section 64.058, Human Resources Code, is amended to read as follows:

Sec. 64.058. RULEMAKING AUTHORITY. (a) The office by rule shall establish policies and procedures for the operations of the office of independent ombudsman.

(b) The office and the commission shall adopt rules necessary to implement Section 64.060, including rules that establish procedures for the commission to review and comment on reports of the office and for the commission to expedite or eliminate review of and comment on a report due to an emergency or a serious or flagrant circumstance described by Section 64.055(b).

SECTION 2.003. Subchapter B, Chapter 64, Human Resources Code, is amended by adding Sections 64.060 and 64.061 to read as follows:

Sec. 64.060. REVIEW AND FORMAT OF REPORTS. (a) The office shall accept, both before and after publication, comments from the commission concerning the following types of reports published by the office under this chapter:

(1) the office's quarterly report under Section 64.055(a);
(2) reports concerning serious or flagrant circumstances under Section 64.055(b); and

(3) any other formal reports containing findings and making recommendations concerning systemic issues that affect the commission.

(b) The commission may not submit comments under Subsection (a) after the 30th day after the date the report on which the commission is commenting is published.

(c) The office shall ensure that reports described by Subsection (a) are in a format to which the commission can easily respond.

(d) After receipt of comments under this section, the office is not obligated to change any report or change the manner in which the office performs the duties of the office.

Sec. 64.061. COMPLAINTS. (a) The office shall maintain a system to promptly and efficiently act on complaints filed with the office that relate to the operations or staff of the office. The office shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

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

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

SECTION 2.004. Subchapter C, Chapter 64, Human Resources Code, is amended by adding Section 64.104 to read as follows:

Sec. 64.104. MEMORANDUM OF UNDERSTANDING. (a) The office and the commission shall enter into a memorandum of understanding concerning:

(1) the most efficient manner in which to share information with one another; and

(2) the procedures for handling overlapping monitoring duties and activities performed by the office and the commission.

(b) The memorandum of understanding entered into under Subsection (a), at a minimum, must:

(1) address the interaction of the office with that portion of the commission that conducts an internal audit under Section 61.0331;

(2) address communication between the office and the commission concerning individual situations involving children committed to the commission and how those situations will be documented and handled;

(3) contain guidelines on the office's role in relevant working groups and policy development decisions at the commission;

(4) ensure opportunities for sharing information between the office and the commission for the purposes of assuring quality and improving programming within the commission; and

(5) preserve the independence of the office by authorizing the office to withhold information concerning matters under active investigation by the office from the commission and commission staff and to report the information to the governor.

ARTICLE 3. TEXAS JUVENILE PROBATION COMMISSION

SECTION 3.001. Section 141.011(a), Human Resources Code, is amended to read as follows:

(a) The commission consists of:

(1) two district court judges who sit as juvenile court judges;

(2) two county judges or commissioners; ~~and~~

(3) one chief juvenile probation officer;

(4) one mental health treatment professional licensed under Subtitle B or I, Title 3, Occupations Code;

(5) one educator, as that term is defined by Section 5.001, Education Code;

(6) one member who represents an organization that advocates on behalf of juvenile offenders or victims of delinquent or criminal conduct; and

(7) one member ~~[five members]~~ of the public who is ~~[are]~~ not an employee ~~[employees]~~ in the criminal or juvenile justice system and is recognized in the community for the person's interest in youth.

SECTION 3.002. Section 141.012, Human Resources Code, is amended to read as follows:

Sec. 141.012. SUNSET PROVISION. (a) The Texas Juvenile Probation Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

(b) In the review of the Texas Juvenile Probation Commission by the Sunset Advisory Commission, as required by this section, the sunset commission shall focus its review on the following:

(1) the commission's compliance with Chapter 263 (SB 103), Acts of the 80th Legislature, Regular Session, 2007;

(2) requirements placed on the agency by legislation enacted by the 81st Legislature, Regular Session, 2009, that becomes law, including implementation of programs for the diversion of youth from the Texas Youth Commission; and

(3) initiatives of the commission and the Texas Youth Commission in coordinating activities and services to better integrate Texas Juvenile Probation Commission, Texas Youth Commission, and county juvenile justice functions,

including joint strategic planning, the sharing of youth data across youth-serving agencies, assessment and classification of youth, and collection of data on probation outcomes.

(c) In its report to the 82nd Legislature, the sunset commission may include any recommendations it considers appropriate. This subsection and Subsection (b) expire September 1, 2011.

SECTION 3.003. Section 141.014, Human Resources Code, is amended to read as follows:

Sec. 141.014. RESTRICTIONS ON COMMISSION APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) A person may not be ~~is not eligible for appointment or service as~~ a public member of the commission if the person or the person's spouse:

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

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

(3) is registered, certified, or licensed by a regulatory agency in the field of criminal or juvenile justice; or

(4) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the commission.

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

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal or juvenile justice; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal or juvenile justice ~~[An officer, employee, or paid consultant of a trade association in the field of criminal or juvenile justice may not be a member or employee of the commission].~~

~~(c) [A person who is the spouse of an officer, employee, or paid consultant of a trade association in the field of criminal or juvenile justice may not be a commission member or a commission employee, including exempt employees, compensated at grade 17 or over according to the position classification schedule under the General Appropriations Act.~~

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

(d) ~~(e)~~ In this section, "Texas trade association" means a ~~[nonprofit,]~~ cooperative and ~~[7]~~ voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual or professional problems and in promoting their common interest.

SECTION 3.004. Section 141.0145, Human Resources Code, is amended to read as follows:

Sec. 141.0145. TRAINING FOR COMMISSION MEMBERS. (a) ~~A [To be eligible to take office as a member of the commission, a]~~ person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes ~~[must complete at least one course of]~~ a training program that complies with this section.

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

(1) the ~~[enabling]~~ legislation that created the commission ~~[and its policymaking body to which the person is appointed to serve];~~

(2) the programs operated by the commission;

(3) the roles ~~[role]~~ and functions of the commission;

(4) ~~[the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

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

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

~~[(6)] [(7)]~~ the requirements of law relating to open meetings, public information, administrative procedure, and conflicts of interest ~~[the:~~

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

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

~~[(C) administrative procedure law, Chapter 2001, Government Code]; and~~

~~[(7)] [(8)]~~ the requirements of the conflict of interests laws and other laws relating to public officials; and

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

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

SECTION 3.005. Sections 141.017(a) and (c), Human Resources Code, are amended to read as follows:

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

(1) does not have at the time of taking office ~~[appointment]~~ the qualifications required by Section 141.011;

(2) ~~does not maintain during service on the commission the qualifications required by Section 141.011 [is not eligible for appointment to or service on the commission as provided by Section 141.014(a)];~~

(3) is ineligible for membership under Section 141.014 [~~violates a prohibition established by Section 141.014(b), (c), or (d)~~];

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

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

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

SECTION 3.006. Section 141.022(b), Human Resources Code, is amended to read as follows:

(b) The advisory council shall report any determinations made under Subsection (c) to the members of the commission appointed under Section 141.011 [~~the director~~].

SECTION 3.007. Subchapter B, Chapter 141, Human Resources Code, is amended by adding Sections 141.027 through 141.029 to read as follows:

Sec. 141.027. COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission, other than complaints received under Section 141.049. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

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

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

Sec. 141.028. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Sec. 141.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

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

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

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

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

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

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

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

SECTION 3.008. Section 141.042, Human Resources Code, is amended by amending Subsections (a), (e), and (h) and adding Subsections (d), (f), (i), and (j) to read as follows:

(a) The commission shall adopt reasonable rules that provide:

(1) minimum standards for personnel, staffing, case loads, programs, facilities, record keeping, equipment, and other aspects of the operation of a juvenile board that are necessary to provide adequate and effective probation services;

(2) a code of ethics for probation and detention officers and for the enforcement of that code;

(3) appropriate educational, preservice and in-service training, and certification standards for probation and detention officers or court-supervised community-based program personnel;

(4) subject to Subsection (d), minimum standards for public and private juvenile pre-adjudication secure detention facilities, public juvenile post-adjudication secure correctional facilities that are operated under the authority of a juvenile board or governmental unit, ~~and~~ private juvenile post-adjudication secure correctional facilities operated under a contract with a governmental unit, except those facilities exempt from certification by Section 42.052(g), and nonsecure correctional facilities operated by or under contract with a governmental unit; and

(5) minimum standards for juvenile justice alternative education programs created under Section 37.011, Education Code, in collaboration and conjunction with the Texas Education Agency, or its designee.

(d) In adopting rules under Subsection (a)(4), the commission shall ensure that the minimum standards for facilities described by Subsection (a)(4) are designed to ensure that juveniles confined in those facilities are provided the rights, benefits, responsibilities, and privileges to which a juvenile is entitled under the United States Constitution, federal law, and the constitution and laws of this state. The minimum standards must include a humane physical and psychological environment, safe conditions of confinement, protection from harm, adequate rehabilitation and education, adequate medical and mental health treatment, and due process of law.

(e) Juvenile probation departments shall use the mental health screening instrument selected by the commission for the initial screening of children under the jurisdiction of probation departments who have been formally referred to the department. The commission shall give priority to training in the use of this instrument in any preservice or in-service training that the commission provides for probation officers. A clinical assessment by a licensed mental health professional may be substituted for the mental health screening instrument selected by the commission if the clinical assessment is performed in the time prescribed by the commission~~[- Juvenile probation departments shall report data from the use of the screening instrument or the clinical assessment to the commission in a format and in the time prescribed by the commission].~~

(f) A juvenile probation department must, before the disposition of a child's case and using a validated risk and needs assessment instrument or process provided or approved by the commission, complete a risk and needs assessment for each child under the jurisdiction of the juvenile probation department.

(h) A juvenile board that does not accept state aid funding from the commission under Section 141.081 shall report to the commission each month on a form provided by the commission the same data as that required of counties accepting state aid funding regarding juvenile justice activities under the jurisdiction of the juvenile board. If the commission makes available free software to the juvenile board for the automation and tracking of juveniles under the jurisdiction of the juvenile board, the commission may require the monthly report to be provided in an electronic format adopted by ~~[rule by]~~ the commission.

(i) A juvenile probation department shall report data from the use of the screening instrument or clinical assessment under Subsection (e) and the risk and needs assessment under Subsection (f) to the commission in the format and at the time prescribed by the commission.

(j) The commission shall adopt rules to ensure that youth in the juvenile justice system are assessed using the screening instrument or clinical assessment under Subsection (e) and the risk and needs assessment under Subsection (f).

SECTION 3.009. Subchapter C, Chapter 141, Human Resources Code, is amended by amending Section 141.0471 and adding Section 141.0472 to read as follows:

Sec. 141.0471. COORDINATED STRATEGIC PLANNING COMMITTEE ~~[PLAN FOR JUVENILE JUSTICE SYSTEM]~~. ~~(a) The director [commission] and the executive director of the Texas Youth Commission shall jointly appoint a strategic planning committee to biennially develop a coordinated strategic plan which shall guide, but not substitute for, the strategic plans developed individually by the agencies. The director and the executive director of the Texas Youth Commission are co-presiding officers of the strategic planning committee.~~

(b) The director shall appoint four members to the strategic planning committee. The director shall appoint at least:

(1) one committee member who represents the interests of families of juvenile offenders;

(2) one committee member who represents the interests of local juvenile probation departments; and

(3) one committee member who is a mental health treatment professional licensed under Subtitle B or I, Title 3, Occupations Code.

(c) The executive director of the Texas Youth Commission shall appoint four members to the strategic planning committee. The executive director shall appoint at least:

(1) one committee member who represents the interests of juvenile offenders;

(2) one committee member who represents the interests of the victims of delinquent or criminal conduct; and

(3) one committee member who is an educator as defined by Section 5.001, Education Code.

Sec. 141.0472. COORDINATED STRATEGIC PLAN; ADOPTION OF PLAN. (a) ~~(b)~~ The coordinated strategic plan developed by the strategic planning committee under Section 141.0471 must ~~shall~~:

(1) identify short-term and long-term policy goals;

(2) identify time frames and strategies for meeting the goals identified under Subdivision (1);

(3) estimate population projections, including projections of population characteristics;

(4) estimate short-term and long-term capacity, programmatic, and funding needs;

(5) describe intensive service and surveillance parole pilot programs to be jointly developed;

(6) include an evaluation of aftercare services emphasizing concrete outcome measures, including recidivism and educational progress;

(7) identify objective criteria for the various decision points throughout the continuum of juvenile justice services and sanctions to guard against disparate treatment of minority youth; ~~and~~

(8) identify cross-agency outcome measures by which to evaluate the effectiveness of the system generally;

(9) include a plan of implementation for the development of common data sources and data sharing among the commission, juvenile probation departments, the Texas Youth Commission, the Department of Family and Protective Services, the Department of State Health Services, the Health and Human Services Commission, the Texas Education Agency, and other state agencies that serve youth in the juvenile justice system;

(10) include the development of new, or the improvement of existing, validated risk assessment instruments;

(11) include strategies to determine which programs are most effective in rehabilitating youth in the juvenile justice system;

(12) include planning for effective aftercare programs and services, including ensuring that youth in the juvenile justice system have personal identification and appropriate referrals to service providers; and

(13) track performance measures to illustrate the costs of different levels of treatment and to identify the most cost-effective programs in each component of the juvenile justice system in this state.

(b) In addition to the information described by Subsection (a), the coordinated strategic plan must include specific processes and procedures for routinely communicating juvenile justice system information between the commission and the Texas Youth Commission and determining opportunities to coordinate practices for improving outcomes for youth.

(c) The governing boards [board] of the commission [Texas Juvenile Probation Commission] and the [executive commissioner of the] Texas Youth Commission shall review and adopt the coordinated strategic plan on or before December 1st of each odd-numbered year, or before the adoption of the agency's individual strategic plan, whichever is earlier.

SECTION 3.010. Section 141.049, Human Resources Code, is amended to read as follows:

Sec. 141.049. COMPLAINTS RELATING TO JUVENILE BOARDS. (a) The commission shall maintain a system to promptly and efficiently act on a [keep an information file about each] complaint filed with the commission relating to a juvenile board funded by the commission. The commission shall maintain information about parties to the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) The commission shall make information available describing the commission's procedures for the investigation and resolution of a complaint filed with the commission relating to a juvenile board funded by the commission.

(c) The commission shall investigate the allegations in the complaint and make a determination of whether there has been a violation of the commission's rules relating to juvenile probation programs, services, or facilities.

(d) [(b)] If a written complaint is filed with the commission relating to a juvenile board funded by the commission, the commission [at least quarterly and until final disposition of the complaint,] shall periodically notify the complainant and the juvenile board of the status of the complaint until final disposition, unless notice would jeopardize an undercover investigation.

SECTION 3.011. Section 141.050, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) The commission shall consider the past performance of a juvenile board when contracting with the juvenile board for local probation services other than basic probation services. In addition to the contract standards described by Subsection (a), a contract with a juvenile board for probation services other than basic probation services must:

(1) include specific performance targets for the juvenile board based on the juvenile board's historic performance of the services; and

(2) require a juvenile board to report on the juvenile board's success in meeting the performance targets described by Subdivision (1).

SECTION 3.012. Subchapter C, Chapter 141, Human Resources Code, is amended by adding Sections 141.057, 141.058, and 141.059 to read as follows:

Sec. 141.057. DATA COLLECTION. (a) The commission shall collect comprehensive data concerning the outcomes of local probation programs throughout the state.

(b) Data collected under Subsection (a) must include:

(1) a description of the types of programs and services offered by a juvenile probation department, including a description of the components of each program or service offered; and

(2) to the extent possible, the rate at which juveniles who enter or complete juvenile probation are later committed to the custody of the state.

Sec. 141.058. QUARTERLY REPORT ON ABUSE, NEGLECT, AND EXPLOITATION. (a) On January 1, 2010, and quarterly after that date, the commission shall prepare and deliver a report to the board concerning the final outcome of any complaint received under Section 261.405, Family Code, that concerns the abuse, neglect, or exploitation of a juvenile. The report must include a summary of the actions performed by the commission and any applicable juvenile board or juvenile probation department in resolving the complaint.

(b) A report prepared under Subsection (a) is public information under Chapter 552, Government Code, only to the extent authorized by that chapter.

Sec. 141.059. RESIDENTIAL TREATMENT FACILITY. (a) The commission may contract with a local mental health and mental retardation authority that, on April 1, 2009, had an unutilized or underutilized residential treatment facility, for the establishment of a residential treatment facility for juveniles with mental illness or emotional injury who, as a condition of juvenile probation, are ordered by a court to reside at the facility and receive education services at the facility. The commission may work in cooperation with the local mental health and mental retardation authority to provide mental health residential treatment services for juveniles residing at a facility established under this section.

(b) A residential treatment facility established under this section must provide juveniles receiving treatment at the facility:

(1) a short-term program of mental health stabilization that does not exceed 150 days in duration; and

(2) all educational opportunities and services, including special education instruction and related services, that a school district is required under state or federal law to provide for students residing in the district through a charter school operated in accordance with and subject to Subchapter D, Chapter 12, Education Code.

(c) If a residential treatment facility established under this section is unable to provide adequate and sufficient educational opportunities and services to juveniles residing at the facility, the facility may not continue to operate beyond the end of the school year in which the opportunities or services provided by the facility are determined to be inadequate or insufficient.

(d) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the State Board of Education shall grant a charter on the application of a residential treatment facility established under this section for a school chartered for the purposes of this section.

SECTION 3.013. The heading to Subchapter D, Chapter 141, Human Resources Code, is amended to read as follows:

SUBCHAPTER D. PROVISIONS RELATING TO CERTAIN [JUVENILE PROBATION] OFFICERS AND EMPLOYEES

SECTION 3.014. Section 141.061(a), Human Resources Code, is amended to read as follows:

(a) To be eligible for appointment as a probation officer, a person who was not employed as a probation officer before September 1, 1981, must:

(1) be of good moral character;

(2) have acquired a bachelor's degree conferred by a college or university accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board;

(3) have either:

(A) one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or other field of instruction approved by the commission; or

(B) one year of experience in full-time case work, counseling, or community or group work:

(i) in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons; and

(ii) that the commission determines provides the kind of experience necessary to meet this requirement;

(4) have satisfactorily completed the course of preservice training or instruction and any continuing education required by the commission;

(5) have passed the tests or examinations required by the commission; and

(6) possess the level of certification required by the commission.

SECTION 3.015. Subchapter D, Chapter 141, Human Resources Code, is amended by adding Section 141.0612 to read as follows:

Sec. 141.0612. MINIMUM STANDARDS FOR CERTAIN EMPLOYEES OF NONSECURE CORRECTIONAL FACILITIES. (a) The commission by rule shall adopt certification standards for persons who are employed in nonsecure correctional facilities that accept only juveniles who are on probation and that are operated by or under contract with a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code.

(b) The certification standards adopted under Subsection (a) must be substantially similar to the certification requirements for detention officers under Section 141.0611.

SECTION 3.016. Section 141.064, Human Resources Code, is amended to read as follows:

Sec. 141.064. REVOCATION OR SUSPENSION OF CERTIFICATION.

(a) The commission may revoke or suspend a certification, or reprimand a certified officer:

- (1) [7] for a violation of this chapter or a commission rule; or
- (2) if, under Subsection (c), a panel determines that continued certification of the person threatens juveniles in the juvenile justice system.

(b) The commission may place on probation a person whose certification is suspended. If the suspension is probated, the commission may require the person to:

- (1) report regularly to the commission on matters that are the basis of the probation; and
- (2) continue or review professional education until the person attains a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

(c) The director may convene, in person or telephonically, a panel of three commission members to determine if a person's continued certification threatens juveniles in the juvenile justice system. If the panel determines that the person's continued certification threatens juveniles in the juvenile justice system, the person's license is temporarily suspended until an administrative hearing is held as soon as possible under Subsection (d). The director may convene a panel under this subsection only if the danger posed by the person's continued certification is imminent. The panel may hold a telephonic meeting only if immediate action is required and convening the panel at one location is inconvenient for any member of the panel.

(d) A person is entitled to a hearing before the State Office of Administrative Hearings [commission or a hearings officer appointed by the commission] if the commission proposes to suspend or revoke the person's certification.

(e) A person may appeal a ruling or order issued under this section to a district court in the county in which the person resides or in Travis County. The standard of review is under the substantial evidence rule. [The commission shall prescribe procedures by which each decision to suspend or revoke is made by or is appealable to the commission.]

SECTION 3.017. Section 141.081, Human Resources Code, is amended by adding Subsection (d) to read as follows:

(d) The commission by rule shall, not later than September 1, 2010, establish one or more basic probation services funding formulas and one or more community corrections funding formulas. The funding formulas established under this subsection must include each grant for which the commission, on or before September 1, 2009, established an allocation formula.

ARTICLE 4. MISCELLANEOUS PROVISIONS

SECTION 4.001. Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.34 to read as follows:

Art. 13.34. CERTAIN OFFENSES COMMITTED AGAINST CHILD COMMITTED TO TEXAS YOUTH COMMISSION. An offense described by Article 104.003(a) committed by an employee or officer of the Texas Youth Commission or a person providing services under a contract with the commission against a child committed to the commission may be prosecuted in:

- (1) any county in which an element of the offense occurred; or
- (2) Travis County.

SECTION 4.002. Section 29.012, Education Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to a residential treatment facility for juveniles established under Section 141.059, Human Resources Code.

SECTION 4.003. Subchapter E, Chapter 30, Education Code, is amended by adding Section 30.106 to read as follows:

Sec. 30.106. READING AND BEHAVIOR PLAN. (a) Because learning and behavior are inextricably linked and learning and improved behavior correlate with decreased recidivism rates, the Texas Youth Commission shall not only fulfill the commission's duties under state and federal law to provide general and special educational services to students in commission educational programs but also shall implement a comprehensive plan to improve the reading skills and behavior of those students.

(b) To improve the reading skills of students in Texas Youth Commission educational programs, the commission shall:

- (1) adopt a reliable battery of reading assessments that:

(A) are based on a normative sample appropriate to students in commission educational programs;

(B) are designed to be administered on an individual basis; and

(C) allow school employees to:

(i) evaluate performance in each essential component of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(ii) monitor progress in areas of deficiency specific to an individual student; and

(iii) provide reading performance data;

- (2) administer the assessments adopted under Subdivision (1):

(A) at periodic intervals not to exceed 12 months, to each student in a commission educational program; and

(B) at least 15 days and not more than 30 days before a student is released from the commission;

(3) provide at least 60 minutes per school day of individualized reading instruction to each student in a commission educational program who exhibits deficits in reading on the assessments adopted under Subdivision (1):

(A) by trained educators with expertise in teaching reading to struggling adolescent readers; and

(B) through the use of scientifically based, peer-reviewed reading curricula that:

(i) have proven effective in improving the reading performance of struggling adolescent readers;

(ii) address individualized and differentiated reading goals; and

(iii) include each of the essential components of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(4) require each teacher in a commission regular or special educational program who teaches English language arts, reading, mathematics, science, social studies, or career and technology education to be trained in incorporating content area reading instruction using empirically validated instructional methods that are appropriate for struggling adolescent readers; and

(5) evaluate the effectiveness of the commission's plan to increase reading skills according to the following criteria:

(A) an adequate rate of improvement in reading performance, as measured by monthly progress monitoring using curricular-based assessments in each of the essential components of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(B) a significant annual rate of improvement in reading performance, disaggregated by subgroups designated under commission rule, as measured using the battery of reading assessments adopted under Subdivision (1); and

(C) student ratings of the quality and impact of the reading plan under this subsection, as measured on a student self-reporting instrument.

(c) To increase the positive social behaviors of students in Texas Youth Commission educational programs and to create an educational environment that facilitates learning, the commission shall:

(1) adopt system-wide classroom and individual positive behavior supports that incorporate a continuum of prevention and intervention strategies that:

(A) are based on current behavioral research; and

(B) are systematically and individually applied to students consistent with the demonstrated level of need;

(2) require each teacher and other educational staff member in a commission educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and

(3) adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:

(A) documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under commission rule;

(B) documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under commission rule;

(C) validated measurement of systemic positive behavioral support interventions; and

(D) the number of minutes students are out of the regular classroom because of disciplinary reasons.

(d) The Texas Youth Commission shall consult with faculty from institutions of higher education who have expertise in reading instruction for adolescents, in juvenile corrections, and in positive behavior supports to develop and implement the plan under Subsections (b) and (c).

(e) A student in a Texas Youth Commission educational program may not be released on parole from the commission unless the student participates, to the extent required by commission rule, in the positive behavior support system under Subsection (c). A student in a commission educational program who exhibits deficits in reading on the assessments adopted under Subsection (b)(1) must also participate in reading instruction to the extent required by this section and by commission rule before the student may be released on parole.

(f) Not later than December 1, 2010, the Texas Youth Commission shall report to the legislature concerning:

(1) the effectiveness of the commission's reading plan based on the criteria specified by Subsection (b)(5); and

(2) the implementation of the positive behavior support system plan under Subsection (c).

(g) Not later than December 1, 2012, the Texas Youth Commission shall report to the legislature concerning the effectiveness of the positive behavior support system based on the criteria specified by Subsection (c)(3).

(h) Subsections (f) and (g) and this subsection expire January 1, 2013.

SECTION 4.004. Section 51.02, Family Code, is amended by adding Subdivision (8-a) to read as follows:

(8-a) "Nonsecure correctional facility" means a facility, other than a secure correctional facility, that accepts only juveniles who are on probation and that is operated by or under contract with a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code.

SECTION 4.005. Chapter 51, Family Code, is amended by adding Section 51.126 to read as follows:

Sec. 51.126. NONSECURE CORRECTIONAL FACILITIES. (a) A nonsecure correctional facility for juvenile offenders may be operated only by:

(1) a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code; or

(2) a private entity under a contract with a governmental unit in this state.

(b) In each county, each judge of the juvenile court and a majority of the members of the juvenile board shall personally inspect, at least annually, all nonsecure correctional facilities that are located in the county and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that the facility or facilities are suitable or unsuitable for the confinement of children. In determining whether a facility is suitable or unsuitable for the confinement of children, the juvenile court judges and juvenile board members shall consider:

(1) current monitoring and inspection reports and any noncompliance citation reports issued by the Texas Juvenile Probation Commission, including the report provided under Subsection (c), and the status of any required corrective actions; and

(2) the other factors described under Sections 51.12(c)(2)-(7).

(c) The Texas Juvenile Probation Commission shall annually inspect each nonsecure correctional facility. The Texas Juvenile Probation Commission shall provide a report to each juvenile court judge presiding in the same county as an inspected facility indicating whether the facility is suitable or unsuitable for the confinement of children in accordance with minimum professional standards for the confinement of children in nonsecure confinement promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board of the county in which the facility is located, the current standards promulgated by the American Correctional Association.

(d) A governmental unit or private entity that operates or contracts for the operation of a juvenile nonsecure correctional facility in this state under Subsection (a), except for a facility operated by or under contract with the Texas Youth Commission, shall:

(1) register the facility annually with the Texas Juvenile Probation Commission; and

(2) adhere to all applicable minimum standards for the facility.

(e) The Texas Juvenile Probation Commission may deny, suspend, or revoke the registration of any facility required to register under Subsection (d) if the facility fails to:

(1) adhere to all applicable minimum standards for the facility; or

(2) timely correct any notice of noncompliance with minimum standards.

SECTION 4.006. Chapter 614, Health and Safety Code, is amended by adding Section 614.018 to read as follows:

Sec. 614.018. CONTINUITY OF CARE FOR JUVENILES WITH MENTAL IMPAIRMENTS. (a) The Texas Juvenile Probation Commission, the Texas Youth Commission, the Department of Public Safety, the Department of State Health Services, the Department of Aging and Disability Services, the Department of Family and Protective Services, the Texas Education Agency, and local juvenile probation departments shall adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care and service program for juveniles with mental impairments in the juvenile justice system. The Texas Correctional Office on Offenders with Medical and Mental Impairments shall coordinate and monitor the development and implementation of the memorandum of understanding.

(b) The memorandum of understanding must establish methods for:

(1) identifying juveniles with mental impairments in the juvenile justice system and collecting and reporting relevant data to the office;

(2) developing interagency rules, policies, and procedures for the coordination of care of and the exchange of information on juveniles with mental impairments who are committed to or treated, served, or supervised by the Texas

Youth Commission, the Texas Juvenile Probation Commission, the Department of Public Safety, the Department of State Health Services, the Department of Family and Protective Services, the Department of Aging and Disability Services, the Texas Education Agency, local juvenile probation departments, local mental health or mental retardation authorities, and independent school districts; and

(3) identifying the services needed by juveniles with mental impairments in the juvenile justice system.

(c) For purposes of this section, "continuity of care and service program" includes:

(1) identifying the medical, psychiatric, or psychological care or treatment needs and educational or rehabilitative service needs of a juvenile with mental impairments in the juvenile justice system;

(2) developing a plan for meeting the needs identified under Subdivision (1); and

(3) coordinating the provision of continual treatment, care, and services throughout the juvenile justice system to juveniles with mental impairments.

SECTION 4.007. Sections 614.017(a) and (b), Health and Safety Code, are amended to read as follows:

(a) An agency shall:

(1) accept information relating to a special needs offender or a juvenile with a mental impairment that is sent to the agency to serve the purposes of continuity of care and services regardless of whether other state law makes that information confidential; and

(2) disclose information relating to a special needs offender or a juvenile with a mental impairment, including information about the offender's or juvenile's identity, needs, treatment, social, criminal, and vocational history, supervision status and compliance with conditions of supervision, and medical and mental health history, if the disclosure serves the purposes of continuity of care and services.

(b) Information obtained under this section may not be used as evidence in any juvenile or criminal proceeding, unless obtained and introduced by other lawful evidentiary means.

SECTION 4.008. Section 614.017(c), Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

(1) "Agency" includes any of the following entities and individuals, a person with an agency relationship with one of the following entities or individuals, and a person who contracts with one or more of the following entities or individuals:

(A) the Texas Department of Criminal Justice and the Correctional Managed Health Care Committee;

(B) the Board of Pardons and Paroles;

(C) the Department of State Health Services;

(D) the Texas Juvenile Probation Commission;

(E) the Texas Youth Commission;

(F) the Department of Assistive and Rehabilitative Services;

(G) the Texas Education Agency;

- (H) the Commission on Jail Standards;
- (I) the Department of Aging and Disability Services;
- (J) the Texas School for the Blind and Visually Impaired;
- (K) community supervision and corrections departments and local juvenile probation departments;
- (L) personal bond pretrial release offices established under Article 17.42, Code of Criminal Procedure;
- (M) local jails regulated by the Commission on Jail Standards;
- (N) a municipal or county health department;
- (O) a hospital district;
- (P) a judge of this state with jurisdiction over juvenile or criminal cases;
- (Q) an attorney who is appointed or retained to represent a special needs offender or a juvenile with a mental impairment;
- (R) the Health and Human Services Commission;
- (S) the Department of Information Resources; [~~and~~]
- (T) the bureau of identification and records of the Department of Public Safety, for the sole purpose of providing real-time, contemporaneous identification of individuals in the Department of State Health Services client data base; and
- (U) the Department of Family and Protective Services.

(3) "Juvenile with a mental impairment" means a juvenile with a mental impairment in the juvenile justice system.

SECTION 4.009. Section 614.009, Health and Safety Code, is amended to read as follows:

Sec. 614.009. BIENNIAL REPORT. Not later than February 1 of each odd-numbered year, the office shall present to the board and file with the governor, lieutenant governor, and speaker of the house of representatives a report giving the details of the office's activities during the preceding biennium. The report must include:

- (1) an evaluation of any demonstration project undertaken by the office;
- (2) an evaluation of the progress made by the office toward developing a plan for meeting the treatment, rehabilitative, and educational needs of offenders with special needs;
- (3) recommendations of the office made in accordance with Section 614.007(5);
- (4) an evaluation of the development and implementation of the continuity of care and service programs established under Sections 614.013, 614.014, 614.015, [~~and~~] 614.016, and 614.018, changes in rules, policies, or procedures relating to the programs, future plans for the programs, and any recommendations for legislation; and
- (5) any other recommendations that the office considers appropriate.

ARTICLE 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.001. Sections 61.025 and 61.027, Human Resources Code, as added by this Act, and Sections 141.014 and 141.0145, Human Resources Code, as amended by this Act, apply only to a person who is appointed or reappointed as a member of the governing board of the Texas Youth Commission or the Texas Juvenile Probation Commission on or after the effective date of this Act. A person appointed or reappointed as a member of the board or commission before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 5.002. Section 61.026, Human Resources Code, as added by this Act, and Section 141.017, Human Resources Code, as amended by this Act, apply only to a ground for removal that occurs on or after the effective date of this Act. A ground for removal that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 5.003. (a) Section 141.011(a), Human Resources Code, as amended by this Act, applies only to a person appointed to the Texas Juvenile Probation Commission on or after the effective date of this Act. A person appointed to the Texas Juvenile Probation Commission before the effective date of this Act is governed by the law in effect on the date the person was appointed, and that law is continued in effect for that purpose.

(b) A person serving on the Texas Juvenile Probation Commission on the effective date of this Act continues to serve on the commission until the person's term expires. When a term expires or a vacancy on the commission occurs, the governor shall make appointments in accordance with Section 141.011(a), Human Resources Code, as amended by this Act.

SECTION 5.004. Section 141.059, Human Resources Code, as added by this Act, and Section 29.012, Education Code, as amended by this Act, apply beginning with the 2009-2010 school year.

SECTION 5.005. Article 13.34, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5.006. (a) Not later than November 1, 2009, the Texas Youth Commission shall adopt the battery of reading assessments as required by Section 30.106(b), Education Code, as added by this Act.

(b) Not later than January 1, 2010, the Texas Youth Commission shall begin administering the battery of reading assessments as required by Section 30.106(b), Education Code, as added by this Act.

SECTION 5.007. Section 30.106(e), Education Code, as added by this Act, applies to release on parole from the Texas Youth Commission beginning September 1, 2010.

SECTION 5.008. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative McClendon moved to adopt the conference committee report on **HB 3689**.

The motion to adopt the conference committee report on **HB 3689** prevailed by (Record 1682): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

(Bonnen in the chair)

HB 4409 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Taylor submitted the following conference committee report on **HB 4409**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4409** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jackson
Fraser
Van de Putte
Nichols
Huffman

Taylor
Smithee
Guillen

On the part of the senate

On the part of the house

HB 4409, A bill to be entitled An Act relating to emergency preparation and management.

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

SECTION 1. Subchapter A, Chapter 418, Government Code, is amended by adding Section 418.006 to read as follows:

Sec. 418.006. CIVIL LIABILITY. An officer or employee of a state or local agency, or a volunteer acting at the direction of an officer or employee of a state or local agency, is considered for purposes of Section 431.085 to be a member of the state military forces ordered into active service of the state by proper authority and is considered to be discharging a duty in that capacity if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster.

SECTION 2. Section 418.043, Government Code, is amended to read as follows:

Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;
- (2) procure and position supplies, medicines, materials, and equipment;
- (3) adopt standards and requirements for local and interjurisdictional emergency management plans;
- (4) periodically review local and interjurisdictional emergency management plans;
- (5) coordinate deployment of mobile support units;
- (6) establish and operate training programs and programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;
- (7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;
- (8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;
- (9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;
- (10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;
- (11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;
- (12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;

(13) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery; ~~and~~

(14) define "individuals with special needs" in the context of a disaster;
and

(15) do other things necessary, incidental, or appropriate for the implementation of this chapter.

SECTION 3. Subchapter F, Chapter 418, Government Code, is amended by adding Section 418.126 to read as follows:

Sec. 418.126. PRE-EVENT DISASTER RESPONSE CONTRACTS. (a) The General Land Office shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the office in the event of a weather-related disaster declaration to obtain services for debris removal from beaches as needed following the disaster.

(b) The Texas Department of Transportation shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain services for debris removal from the state highway system as needed following the disaster.

(c) The Texas Department of Housing and Community Affairs shall solicit proposals for and enter into one or more pre-event contracts that may be activated by the department in the event of a weather-related disaster declaration to obtain temporary or emergency housing as needed following the disaster.

(d) Services obtained under a pre-event contract under this section may be paid for with money from the disaster contingency fund under Section 418.073.

SECTION 4. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2311 to read as follows:

CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL GOVERNMENTAL FACILITIES

Sec. 2311.001. DEFINITIONS. In this chapter:

(1) "Combined heating and power system" means a system that:

(A) is located on the site of a facility;

(B) is the primary source of both electricity and thermal energy for the facility;

(C) can provide all of the electricity needed to power the facility's critical emergency operations for at least 14 days; and

(D) has an overall efficiency of energy use that exceeds 60 percent.

(2) "Critical governmental facility" means a building owned by the state or a political subdivision of the state that is expected to:

(A) be continuously occupied;

(B) maintain operations for at least 6,000 hours each year;

(C) have a peak electricity demand exceeding 500 kilowatts; and

(D) serve a critical public health or public safety function during a natural disaster or other emergency situation that may result in a widespread power outage, including a:

(i) command and control center;

- (ii) shelter;
- (iii) prison or jail;
- (iv) police or fire station;
- (v) communications or data center;
- (vi) water or wastewater facility;
- (vii) hazardous waste storage facility;
- (viii) biological research facility;
- (ix) hospital; or
- (x) food preparation or food storage facility.

Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When constructing or extensively renovating a critical governmental facility or replacing major heating, ventilation, and air-conditioning equipment for a critical governmental facility, the entity with charge and control of the facility shall evaluate whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period. The entity may equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs.

SECTION 5. Section 2210.001, Insurance Code, is amended to read as follows:

Sec. 2210.001. PURPOSE. The primary purpose of the Texas Windstorm Insurance Association is the provision of an [An] adequate market for windstorm and[;] hail[; and fire] insurance in the seacoast territory of this state. The legislature finds that the provision of adequate windstorm and hail insurance is necessary to the economic welfare of this state, and without that insurance, the orderly growth and development of this state would be severely impeded. This chapter provides a method by which adequate windstorm and[;] hail[; and fire] insurance may be obtained in certain designated portions of the seacoast territory of this state. The association is intended to serve as a residual insurer of last resort for windstorm and hail insurance in the seacoast territory. The association shall:

(1) function in such a manner as to not be a direct competitor in the private market; and

(2) provide windstorm and hail insurance coverage to those who are unable to obtain that coverage in the private market.

SECTION 6. Section 2210.002, Insurance Code, is amended to read as follows:

Sec. 2210.002. SHORT TITLE; SUNSET PROVISION. (a) This chapter may be cited as the Texas Windstorm Insurance Association Act.

(b) The association is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The association shall be reviewed during the period in which state agencies abolished in 2015 are reviewed. The association shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the association under this subsection. The Sunset Advisory Commission shall determine the costs of the review

performed under this subsection, and the association shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2015.

SECTION 7. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.0025 to read as follows:

Sec. 2210.0025. BIENNIAL REPORT TO LEGISLATURE. On or before December 31 of each even-numbered year, the board of directors shall submit to the commissioner, the appropriate committees of each house of the legislature, and the Sunset Advisory Commission a written report relating to the operations of the association during the preceding biennium. The report must include:

(1) any proposed changes in the laws relating to regulation of the association and a statement of the reasons for the changes; and

(2) any information regarding association operations or procedures that is requested by the department to be addressed in the report.

SECTION 8. Section 2210.003, Insurance Code, is amended by adding Subdivision (3-a) and amending Subdivision (6) to read as follows:

(3-a) "Catastrophe reserve trust fund" means the trust fund established under Subchapter J.

(6) "Insurance" means Texas [~~fire and explosion insurance and Texas~~] windstorm and hail insurance.

SECTION 9. Subsection (a), Section 2210.004, Insurance Code, is amended to read as follows:

(a) Except as provided by Subsection (h), for purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail [~~or fire and explosion, as appropriate~~], as determined by normal underwriting standards. The term includes property described by Section 2210.209.

SECTION 10. Section 2210.005, Insurance Code, is amended to read as follows:

Sec. 2210.005. DESIGNATION AS CATASTROPHE AREA [~~OR INADEQUATE FIRE INSURANCE AREA~~]; REVOCATION OF DESIGNATION. (a) After at least 10 days' notice and a hearing, the commissioner may designate an area of the seacoast territory of this state as a catastrophe area if the commissioner determines, unless such a determination results in an adverse impact to the exposure of the association, that windstorm and hail insurance is not reasonably available to a substantial number of the owners of insurable property located in that territory because the territory is subject to unusually frequent and severe damage resulting from windstorms or hailstorms.

(b) ~~[After at least 10 days' notice and a hearing, the commissioner may designate an area of this state as an inadequate fire insurance area if the commissioner determines that fire and explosion insurance is not reasonably available to a substantial number of owners of insurable property located in that area.~~

(e) The commissioner shall revoke a designation made under Subsection (a) ~~[or (b)]~~ if the commissioner determines, after at least 10 days' notice and a hearing, that the applicable insurance coverage is no longer reasonably unavailable to a substantial number of owners of insurable property within the designated territory.

(c) ~~[(d)]~~ If the association determines that windstorm and hail insurance ~~[or fire and explosion insurance]~~ is no longer reasonably unavailable to a substantial number of owners of insurable property in a territory designated as a catastrophe area ~~[or inadequate fire insurance area, as applicable]~~, the association may request in writing that the commissioner revoke the designation. After at least 10 days' notice and a hearing, but not later than the 30th day after the date of the hearing, the commissioner shall:

- (1) approve the request and revoke the designation; or
- (2) reject the request.

SECTION 11. Section 2210.008, Insurance Code, is amended to read as follows:

Sec. 2210.008. DEPARTMENT ORDERS; GENERAL RULEMAKING AUTHORITY. (a) The [After notice and hearing as provided by Subsection (b), the] commissioner may issue any orders that the commissioner considers necessary to implement this chapter~~[, including orders regarding maximum rates, competitive rates, and policy forms].~~

(b) The commissioner may adopt rules in the manner prescribed by Subchapter A, Chapter 36, as reasonable and necessary to implement this chapter~~[Before the commissioner adopts an order, the department shall post notice of the hearing on the order at the secretary of state's office in Austin and shall hold a hearing to consider the proposed order. Any person may appear at the hearing and testify for or against the adoption of the order].~~

(c) In rules adopted under this chapter, the commissioner shall define the meaning of "alter" and "alteration" for purposes of this chapter, specifically as used in Subchapters E and F.

SECTION 12. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.009 to read as follows:

Sec. 2210.009. LIST OF PRIVATE INSURERS; INCENTIVE PLAN. (a) The department shall maintain a list of all insurers that engage in the business of property and casualty insurance in the voluntary market in the seacoast territory.

(b) The department shall develop incentive programs in the manner described by Section 2210.053(b) to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of the association as a means to obtain insurance.

SECTION 13. Section 2210.052, Insurance Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

(a) Each member of the association shall participate in insured losses and operating expenses of the association, in excess of premium and other revenue ~~[the writings, expenses, profits, and losses]~~ of the association, in the proportion that the net direct premiums of that member during the preceding calendar year bears to the aggregate net direct premiums by all members of the association, as determined using the information provided under Subsection (b).

(d) Notwithstanding Subsection (a), a member, in accordance with the plan of operation, is entitled to receive credit for similar insurance voluntarily written in areas ~~[an area]~~ designated by the commissioner. The member's participation in the insured losses and operating expenses of the association in excess of premium and other revenue ~~[writings]~~ of the association shall be reduced in accordance with the plan of operation.

(e) Notwithstanding Subsections (a)-(d), an insurer that becomes a member of the association and that has not previously been a member of the association is not subject to participation in any insured losses and operating expenses of the association in excess of premium and other revenue of the association until the second anniversary of the date on which the insurer first becomes a member of the association.

SECTION 14. Subsection (b), Section 2210.056, Insurance Code, is amended to read as follows:

(b) The association's assets may not be used for or diverted to any purpose other than to:

(1) satisfy, in whole or in part, the liability of the association on claims made on policies written by the association;

(2) make investments authorized under applicable law;

(3) pay reasonable and necessary administrative expenses incurred in connection with the operation of the association and the processing of claims against the association; ~~[or]~~

(4) satisfy, in whole or in part, the obligations of the association incurred in connection with Subchapters B-1, J, and M, including reinsurance, public securities, and financial instruments; or

(5) make remittance under the laws of this state to be used by this state to:

(A) pay claims made on policies written by the association;

(B) purchase reinsurance covering losses under those policies; or

(C) prepare for or mitigate the effects of catastrophic natural events.

SECTION 15. Subsection (c), Section 2210.060, Insurance Code, is amended to read as follows:

(c) Subsection (a) does not authorize the association to indemnify a member of the association for participating in the assessments made by ~~[writings, expenses, profits, and losses of]~~ the association in the manner provided by this chapter.

SECTION 16. Chapter 2210, Insurance Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. PAYMENT OF LOSSES

Sec. 2210.071. PAYMENT OF EXCESS LOSSES; PAYMENT FROM RESERVES AND TRUST FUND. (a) If an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(b) The association shall pay losses in excess of premium and other revenue of the association from available reserves of the association and available amounts in the catastrophe reserve trust fund.

Sec. 2210.072. PAYMENT FROM CLASS 1 PUBLIC SECURITIES; FINANCIAL INSTRUMENTS. (a) Losses not paid under Section 2210.071 shall be paid as provided by this section from the proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence or series of occurrences that results in insured losses.

(b) Public securities described by Subsection (a) shall be issued as necessary in a principal amount not to exceed \$1 billion per year.

(c) If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M from association premium revenue.

(d) The association may borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans or other financial instruments to the association to enable the association to pay losses under this section or to obtain public securities under this section. For purposes of this subsection, financial instruments includes commercial paper.

Sec. 2210.073. PAYMENT FROM CLASS 2 PUBLIC SECURITIES. (a) Losses not paid under Sections 2210.071 and 2210.072 shall be paid as provided by this section from proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under this subsection. Public securities issued under this section must be repaid within a period set by the commissioner by rule, not to exceed 10 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.

(b) Public securities described by Subsection (a) may be issued as necessary in a principal amount not to exceed \$1 billion per year. If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M.

Sec. 2210.074. PAYMENT THROUGH CLASS 3 PUBLIC SECURITIES. (a) Losses not paid under Sections 2210.071, 2210.072, and 2210.073 shall be paid as provided by this section from proceeds from public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under this subsection or through reinsurance as described by Subsection (c).

(b) Public securities described by Subsection (a) may be issued as necessary in a principal amount not to exceed \$500 million per year. If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association may not recoup an assessment paid under this subsection through a premium surcharge or tax credit.

Sec. 2210.075. REINSURANCE. (a) Before any occurrence or series of occurrences, an insurer may elect to purchase reinsurance to cover an assessment for which the insurer would otherwise be liable under Section 2210.074(b).

(b) An insurer must notify the board of directors, in the manner prescribed by the association whether the insurer will be purchasing reinsurance. If the insurer does not elect to purchase reinsurance under this section, the insurer remains liable for any assessment imposed under Section 2210.074(b).

SECTION 17. The heading to Subchapter C, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER C. ASSOCIATION BOARD OF DIRECTORS; GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS

SECTION 18. Section 2210.102, Insurance Code, is amended to read as follows:

Sec. 2210.102. COMPOSITION. (a) The board of directors is composed of ~~the following~~ nine members appointed by the commissioner in accordance with this section.

(b) Four members must be ~~[- (1) five]~~ representatives of the insurance industry.

(c) Four members must ~~[different insurers who are members of the association, elected by the members as provided by the plan of operation;~~

~~[(2) two public representatives who are nominated by the office of public insurance counsel and who], as of the date of the appointment, [-~~

~~[(A)] reside in the first tier coastal counties. At least one of the members appointed under this subsection must be a ~~[catastrophe area; and~~~~

~~[(B) are policyholders of the association; and~~

~~[(3) two] property and casualty agent who is licensed under this code and is not a captive agent.~~

(d) One member must be a representative of an area of this state that is not located in the seacoast territory with demonstrated expertise in insurance and actuarial principles.

(e) All members must ~~[agents, each of whom must:~~

~~[(A)] have demonstrated experience in insurance, general business, or actuarial principles sufficient to make the success of the association probable[-~~

~~[(B) maintain the agent's principal office, as of the date of the appointment, in a catastrophe area; and~~

~~[(C) hold a license under Chapter 4051 as a general property and casualty agent or a personal lines property and casualty agent].~~

(f) Insurers who are members of the association shall nominate, from among those members, persons to fill any vacancy in the four board of director seats reserved for representatives of the insurance industry. The board of directors shall solicit nominations from the members and submit the nominations to the commissioner. The nominee slate submitted to the commissioner under this subsection must include at least three more names than the number of vacancies. The commissioner shall appoint replacement insurance industry representatives from the nominee slate.

(g) The commissioner shall appoint one person to serve as a nonvoting member of the board to advise the board regarding issues relating to the inspection process. The commissioner may give preference in an appointment under this subsection to a person who is a qualified inspector under Section 2210.254. The nonvoting member appointed under this section must:

(1) be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers;

(2) reside in a first tier coastal county; and

(3) be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes.

(h) ~~(b)~~ The persons appointed under Subsection (c) ~~Subsections (a)(2) and (3)~~ must be from different counties.

SECTION 19. Section 2210.103, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) A member of the board of directors may be removed by the commissioner with cause stated in writing and posted on the association's website. The commissioner shall appoint a replacement in the manner provided by Section 2210.102 for a member who leaves or is removed from the board of directors.

SECTION 20. Section 2210.104, Insurance Code, is amended to read as follows:

Sec. 2210.104. OFFICERS. The board of directors shall elect from the board's membership an executive committee consisting of a presiding officer, assistant presiding officer, and secretary-treasurer. ~~[At least one of the officers must be a member appointed under Section 2210.102(a)(2) or (3).]~~

SECTION 21. Section 2210.105, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Except for an emergency meeting, a meeting of the board of directors shall be held at a location as determined by the board of directors.

SECTION 22. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.1051 to read as follows:

Sec. 2210.1051. MEETINGS OF BOARD OF DIRECTORS. (a) Notwithstanding Chapter 551, Government Code, or any other law, members of the board of directors may meet by telephone conference call, videoconference, or other similar telecommunication method. The board may use

telephone conference call, videoconference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with this subsection and Subsection (b). This subsection applies without regard to the subject matter discussed or considered by the members of the board at the meeting.

(b) A meeting held by telephone conference call, videoconference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other meetings of the board of directors;

(2) may not be held unless notice of the meeting specifies the location of the meeting and a recording of the meeting is posted on the association's website;

(3) must be audible to the public at the location specified in the notice under Subdivision (2); and

(4) must provide two-way audio communication between all members of the board attending the meeting during the entire meeting, and if the two-way audio communication link with members attending the meeting is disrupted so that a quorum of the board is no longer participating in the meeting, the meeting may not continue until the two-way audio communication link is reestablished.

SECTION 23. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.107 to read as follows:

Sec. 2210.107. PRIMARY BOARD OBJECTIVES. The primary objectives of the board of directors are to ensure that the association:

(1) operates in accordance with this chapter and commissioner rules;

(2) complies with sound insurance principles; and

(3) meets all standards imposed under this chapter.

SECTION 24. Section 2210.151, Insurance Code, is amended to read as follows:

Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the advice of the board of directors, the commissioner by rule shall adopt the plan of operation to provide[+:

~~[(1)] Texas windstorm and hail insurance in a catastrophe area[; and~~

~~[(2)] Texas fire and explosion insurance in an inadequate fire insurance area].~~

SECTION 25. Subsection (a), Section 2210.152, Insurance Code, is amended to read as follows:

(a) The plan of operation must:

(1) provide for the efficient, economical, fair, and nondiscriminatory administration of the association; and

(2) include:

(A) a plan for the equitable assessment of the members of the association to defray losses and expenses;

(B) underwriting standards;

(C) procedures for accepting and ceding reinsurance;

(D) procedures for obtaining and repaying amounts under any financial instruments authorized under this chapter;

(E) procedures for determining the amount of insurance to be provided to specific risks;

(F) ~~(F)~~ time limits and procedures for processing applications for insurance; and

(G) ~~(F)~~ other provisions as considered necessary by the department to implement the purposes of this chapter.

SECTION 26. Section 2210.202, Insurance Code, is amended to read as follows:

Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who has an insurable interest in insurable property may apply to the association for insurance coverage provided under the plan of operation and an inspection of the property, subject to any rules ~~[, including any inspection fee,]~~ established by the board of directors and approved by the commissioner. The association shall make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, property insurance providing windstorm and hail coverage in the first tier coastal counties. For purposes of this section, "declination" has the meaning assigned by the plan of operation and shall include a refusal to offer coverage for the perils of windstorm and hail and the inability to obtain substantially equivalent insurance coverage for the perils of windstorm and hail. Notwithstanding Section 2210.203(c), evidence of one declination is also required with an application for renewal of an association policy.

(b) A ~~[general]~~ [general] property and casualty agent ~~[or a personal lines property and casualty agent]~~ must submit an application for the insurance coverage on behalf of the applicant on forms prescribed by the association. The application must contain a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due. Each application for initial or renewal coverage must also contain a statement that the agent possesses proof of the declination described by Subsection (a) and proof of flood insurance coverage or unavailability of that coverage as described by Section 2210.203(a-1).

SECTION 27. Section 2210.203, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) This subsection applies only to a structure constructed, altered, remodeled, or enlarged on or after September 1, 2009, and only for insurable property located in areas designated by the commissioner. Notwithstanding Subsection (a), if all or any part of the property to which this subsection applies is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood insurance under that federal program is available, the association may not issue an insurance policy for initial or renewal coverage unless evidence that the property is covered by a flood insurance policy is submitted to the association.

An agent offering or selling a Texas windstorm and hail insurance policy in any area designated by the commissioner under this subsection shall offer flood insurance coverage to the prospective insured, if that coverage is available.

SECTION 28. Section 2210.204, Insurance Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who submitted the application shall refund the agent's commission on any unearned premium in the same manner.

(e) For cancellation of insurance coverage under this section, the minimum retained premium in the plan of operation must be for a period of not less than 180 days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

- (1) the purchase of similar coverage in the voluntary market;
- (2) sale of the property to an unrelated party;
- (3) death of the policyholder; or
- (4) total loss of the property.

SECTION 29. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Section 2210.2041 to read as follows:

Sec. 2210.2041. NONREFUNDABLE SURCHARGE. A nonrefundable surcharge established under this chapter is not refundable under this code for any reason or purpose.

SECTION 30. Section 2210.251, Insurance Code, is amended to read as follows:

Sec. 2210.251. INSPECTION REQUIREMENTS. (a) Except as provided by this section, to be considered insurable property eligible for windstorm and hail insurance coverage from the association, a structure that is constructed, altered, remodeled, enlarged, or repaired or to which additions are made on or after January 1, 1988, must be inspected [~~or approved~~] by the department for compliance with the plan of operation.

(b) After January 1, 2004, for geographic areas specified by the commissioner, the commissioner by rule shall adopt the 2003 International Residential Code for one- and two-family dwellings published by the International Code Council. For those geographic areas, the commissioner by rule may adopt a subsequent edition of that code and may adopt any supplements published by the International Code Council and amendments to that code.

(c) After January 1, 2004, a person must submit a notice of a windstorm inspection to the unit responsible for certification of windstorm inspections at the department before beginning to construct, alter, remodel, enlarge, or repair a structure.

(d) A structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area that was governed at the time of the construction, alteration, remodeling, enlargement,

repair, or addition by a building code recognized by the association is insurable property eligible for windstorm and hail insurance coverage from the association without compliance with the inspection [~~or approval~~] requirements of this section or the plan of operation.

(e) A structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area not governed by a building code recognized by the association is insurable property eligible for windstorm and hail insurance coverage from the association without compliance with the inspection [~~or approval~~] requirements of this section or the plan of operation if the structure was previously insured by an insurer authorized to engage in the business of insurance in this state and the structure is in essentially the same condition as when previously insured, except for normal wear and tear, and is without any structural change other than a change made according to code. For purposes of this subsection, evidence of previous insurance coverage must reflect coverage for the perils of windstorm and hail for the property within the 12-month period immediately preceding the date of the application for coverage through the association and includes:

- (1) a copy of a previous insurance policy;
- (2) copies of canceled checks or agent's records that show payments for previous policies; and
- (3) a copy of the title to the structure or mortgage company records that show previous policies.

(f) Notwithstanding any other provision of this section, a residential structure insured by the association as of September 1, 2009, may continue coverage through the association subject to the inspection requirements imposed under Section 2210.258.

(g) The department shall issue a certificate of compliance for each structure that qualifies for coverage. The certificate is evidence of insurability of the structure by the association.

(h) [~~(g)~~] The department may enter into agreements and contracts as necessary to implement this section.

(i) [~~(h)~~] The department may charge a reasonable fee to cover the cost of making building requirements and inspection standards available to the public.

(j) The department shall charge a reasonable fee for each inspection of each structure in an amount set by the commissioner.

(k) Without limitation of the department's authority to otherwise enforce this chapter, the department shall monitor the association's compliance with this subchapter.

(l) Except as otherwise provided by this subchapter, the department may not consider any request that a structure be certified as insurable property if, within six months after the final inspection of a structure, the department has not received:

- (1) fully completed documentation verifying that the structure has been constructed, altered, remodeled, enlarged, or repaired, or any addition to the structure has been made, in compliance with the plan of operation; and

(2) full payment of all inspection fees owed to the department, including any fees related to prior association inspections.

(m) If a structure is rejected for coverage under Subsection (l), a person may make a new request for certification and the structure may be reinspected for compliance with the plan of operation. A request for certification brought under this subsection must meet the requirements of Subsection (l).

SECTION 31. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Sections 2210.258 and 2210.259 to read as follows:

Sec. 2210.258. MANDATORY COMPLIANCE WITH BUILDING CODES; ELIGIBILITY. (a) Notwithstanding any other provision of this chapter, to be eligible for insurance through the association, all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after the effective date of Sections through **HB 4409**, Acts of the 81st Legislature, Regular Session, 2009, must be performed in compliance with the applicable building code standards, as set forth in the plan of operation.

(b) The association may not insure a structure described by Subsection (a) until:

(1) the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a); and

(2) a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g).

Sec. 2210.259. SURCHARGE FOR CERTAIN NONCOMPLIANT STRUCTURES. (a) A noncompliant residential structure insured by the association as of June 1, 2009, under Section 2210.251(f) that had been approved for insurability under the approval process regulations in effect on June 1, 2009, is subject to an annual premium surcharge in an amount equal to 15 percent of the premium for insurance coverage obtained through the association. The surcharge under this subsection applies to each policy issued or renewed by the association on or after the effective date of SECTIONS ___ through ___, **HB 4409**, Acts of the 81st Legislature, Regular Session, 2009, and is due on the issuance or renewal of the policy.

(b) A premium surcharge collected under this section shall be deposited in the catastrophe reserve trust fund. A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

SECTION 32. Subsections (c) and (d), Section 2210.351, Insurance Code, are amended to read as follows:

(c) Except as provided by Subsection (d), as [As] soon as reasonably possible after the filing has been made, the commissioner in writing shall approve[~~-, modify,~~] or disapprove the filing. A filing is considered approved unless [~~modified or~~] disapproved on or before the 30th day after the date of the

filing. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

(d) The association may use a rate filed by the association without prior commissioner approval if:

(1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2) the filed rate does not exceed 105 percent of the rate in effect on the date on which the filing is made;

(3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made; and

(4) the commissioner has not disapproved the filing in writing, advising of the reasons for the disapproval and the criteria the association is required to meet to obtain approval [If at any time the commissioner determines that a filing approved under Subsection (e) no longer meets the requirements of this chapter, the commissioner may, after a hearing held on at least 20 days' notice to the association that specifies the matters to be considered at the hearing, issue an order withdrawing approval of the filing. The order must specify in what respects the commissioner determines that the filing no longer meets the requirements of this chapter. An order issued under this subsection may not take effect before the 30th day after the date of issuance of the order].

SECTION 33. Section 2210.352, Insurance Code, is amended to read as follows:

Sec. 2210.352. MANUAL RATE FILINGS: ANNUAL FILING. (a) Not later than August 15 of each year, the association shall file with the department ~~[for approval by the commissioner]~~ a proposed manual rate for all types and classes of risks written by the association~~[- Chapter 40 does not apply to:~~

~~[(1) a filing made under this subsection; or~~

~~[(2) a department action with respect to the filing].~~

(a-1) The association may use a rate filed by the association under this section without prior commissioner approval if:

(1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2) the filed rate does not exceed 105 percent of the rate used by the association in effect on the date on which the filing is made; and

(3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made.

(a-2) The association may not file to use a rate described by Subsection (a-1) more than once per year.

(b) Except as provided by Subsection (a-1), before [Before] approving or[?] disapproving[, or modifying] a filing under this section, the commissioner shall provide all interested persons a reasonable opportunity to:

(1) review the filing;

(2) obtain copies of the filing on payment of any legally required copying cost; and

(3) submit to the commissioner written comments or information related to the filing.

(c) Except as provided by Subsection (a-1), [The commissioner shall schedule an open meeting not later than the 45th day after the date the department receives a filing at which interested persons may present written or oral comments relating to the filing.

~~[(d) An open meeting under Subsection (c) is subject to Chapter 551, Government Code, but is not a contested case hearing under Chapter 2001, Government Code.~~

~~[(e) The department shall file with the secretary of state for publication in the Texas Register notice that a filing has been made under Subsection (a) not later than the seventh day after the date the department receives the filing. The notice must include information relating to:~~

~~[(1) the availability of the filing for public inspection at the department during regular business hours and the procedures for obtaining copies of the filing;~~

~~[(2) procedures for making written comments related to the filing; and~~

~~[(3) the time, place, and date of the open meeting scheduled under Subsection (e) at which interested persons may present written or oral comments relating to the filing.~~

~~[(f) After the conclusion of the open meeting,] the commissioner shall approve or disapprove ~~or modify~~ the filing in writing not later than October ~~[November]~~ 15 of the year in which the filing was made. If the filing is not approved or disapproved ~~or modified~~ on or before that date, the filing is considered approved.~~

(d) Except as provided by Subsection (a-1), if [(g) H] the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

SECTION 34. Section 2210.353, Insurance Code, is amended to read as follows:

Sec. 2210.353. MANUAL RATE FILINGS: AMENDED ANNUAL FILING. (a) Not later than the 30th day after the date the association receives the commissioner's written disapproval under Section 2210.352(c) ~~[2210.352(f)]~~, the association may file with the commissioner an amended annual filing that conforms to all criteria stated in that written disapproval.

(b) Not later than the 30th day after the date an amended filing made under Subsection (a) is received, the commissioner shall approve ~~[the amended filing with or without modifications]~~ or disapprove the amended filing. If the filing is not ~~[modified or]~~ disapproved on or before the 30th day after the date of receipt, the filing is considered approved ~~[without modification]~~. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

(c) Before approving or disapproving an amended annual filing under this section, the commissioner shall, in the manner provided by Section 2210.352(b), provide all interested persons a reasonable opportunity to:

- (1) review the amended annual filing;
- (2) obtain copies of the amended annual filing on payment of any legally required copying cost; and
- (3) submit to the commissioner written comments or information related to the amended annual filing.

~~[(d) The commissioner may, in the manner provided by Sections 2210.352(e) and (d), hold a hearing regarding an amended filing not later than the 20th day after the date the department receives the amended filing.]~~

~~[(e) Not later than the 10th day after the date the hearing is concluded, the commissioner shall approve or disapprove the amended filing.]~~

~~[(f) The requirements imposed under Subsection (a) and under Sections 2210.352(e), (f), and (g) apply to a hearing conducted under this section and the commissioner's decision resulting from that hearing.]~~

SECTION 35. Subsections (a), (c), and (d), Section 2210.354, Insurance Code, are amended to read as follows:

(a) In conjunction with the review of a filing under Section 2210.352, other than a filing made under Subsection (a-1) of that section, [or 2210.353]:

- (1) the commissioner may request the association to provide additional supporting information relating to the filing; and
- (2) any interested person may file a written request with the commissioner, during a period specified by the commissioner by rule, for additional supporting information relating to the filing.

(c) The commissioner shall submit to the association all requests for additional supporting information made under this section for the commissioner's use and the use of any interested person not later than the 21st day after the date of receipt of the filing.

(d) Unless a different period is requested by the association and approved by the commissioner, the association shall provide the information to the commissioner not later than the fifth day after the date the written request for additional supporting information is delivered to the association. ~~[The department shall notify an interested person who has requested additional information of the availability of the information not later than one business day after the date the commissioner receives the information from the association.]~~

SECTION 36. Section 2210.355, Insurance Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) In adopting rates under this chapter, recognized catastrophe models may be considered.

(i) The association may establish rating territories and may vary rates among the territories as provided by this subsection. A rating territory that subdivides a county may be used only if the rate for any subdivision in the county is not more than:

(A) five percent higher than the rate used by the association in 2009 in any other subdivision in the county;

(B) six percent higher than the rate used by the association in 2010 in any other subdivision in the county;

(C) seven percent higher than the rate used by the association in 2011 in any other subdivision in the county; and

(D) eight percent higher than the rate used by the association in 2012 in any other subdivision in the county.

SECTION 37. Subsection (b), Section 2210.361, Insurance Code, is amended to read as follows:

(b) After notice and hearing, the commissioner may accept~~[, modify,]~~ or reject a recommendation made by the association under this section. ~~[Chapter 40 does not apply to an action taken under this section.]~~

SECTION 38. Subsections (a), (c), and (d), Section 2210.452, Insurance Code, are amended to read as follows:

(a) The commissioner shall adopt rules under which the association makes [members relinquish their net equity on an annual basis as provided by those rules by making] payments to the catastrophe reserve trust fund. The trust fund may be used only to fund~~[-~~

~~[(1)]~~ the obligations of the trust fund under Subchapter B-1 [Section 2210.058(a); and

~~[(2)]~~ the mitigation and preparedness plan established under Section 2210.454 to reduce the potential for payments by association members that give rise to tax credits in the event of loss].

(c) At the end of each calendar year or policy year, the association shall use [pay] the net gain from operations [equity] of the association [a member], including all premium and other revenue of the association in excess of incurred losses and operating expenses, to make payments to the trust fund, to procure [or a] reinsurance, or to make payments to the trust fund and to procure reinsurance [program approved by the commissioner].

(d) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund to policyholders in the event of an occurrence or series of occurrences within a catastrophe area that results in a disbursement under Subchapter B-1 [Section 2210.058(a)].

SECTION 39. Section 2210.453, Insurance Code, is amended to read as follows:

Sec. 2210.453. REINSURANCE ~~[PROGRAM]~~. (a) The association may [shall]:

(1) make payments into the trust fund; and [or]

(2) purchase [establish a] reinsurance [program approved by the department].

(b) The ~~[With the approval of the department, the]~~ association may purchase [establish a] reinsurance [program] that operates in addition to or in concert with the trust fund, public securities, financial instruments, and assessments authorized by this chapter.

SECTION 40. Subsection (b), Section 2210.454, Insurance Code, is amended to read as follows:

(b) Each state fiscal year, the department may fund the mitigation and preparedness plan using available funds ~~[the investment income of the trust fund in an amount not less than \$1 million and not more than 10 percent of the investment income of the prior fiscal year. From that amount and as part of that plan, the department may use in each fiscal year \$1 million for the windstorm inspection program established under Section 2210.251].~~

SECTION 41. Chapter 2210, Insurance Code, is amended by adding Subchapters M and N to read as follows:

SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

Sec. 2210.601. PURPOSE. The legislature finds that authorizing the issuance of public securities to provide a method to raise funds to provide windstorm and hail insurance through the association in certain designated portions of the state is for the benefit of the public and in furtherance of a public purpose.

Sec. 2210.602. DEFINITIONS. In this subchapter:

(1) "Board" means the board of directors of the Texas Public Finance Authority.

(2) "Class 1 public securities" means public securities authorized to be issued on or after an occurrence or series of occurrences by Section 2210.072, including a commercial paper program authorized before the occurrence of a catastrophic event so long as no tranche of commercial paper is issued under the program until after the catastrophic event.

(3) "Class 2 public securities" means public securities authorized to be issued on or after the occurrence of a catastrophic event by Section 2210.073.

(4) "Class 3 public securities" means public securities authorized to be issued on or after the occurrence of a catastrophic event by Section 2210.074.

(5) "Credit agreement" has the meaning assigned by Chapter 1371, Government Code.

(6) "Insurer" means each property and casualty insurer authorized to engage in the business of property and casualty insurance in this state and an affiliate of such an insurer, as described by Section 823.003, including an affiliate that is not authorized to engage in the business of property and casualty insurance in this state. The term specifically includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.

(7) "Public security" means a debt instrument or other public security issued by the Texas Public Finance Authority.

(8) "Public security administrative expenses" means expenses incurred to administer public securities issued under this subchapter, including fees for credit enhancement, paying agents, trustees, and attorneys, and for other professional services.

(9) "Public security obligations" means the principal of a public security and any premium and interest on a public security issued under this subchapter, together with any amount owed under a related credit agreement.

(10) "Public security obligation revenue fund" means the dedicated trust fund established by the association and held by the Texas Safekeeping Trust Company outside the state treasury under this subchapter.

(11) "Public security resolution" means the resolution or order authorizing public securities to be issued under this subchapter.

Sec. 2210.603. APPLICABILITY OF OTHER LAWS. (a) The board shall issue the public securities as described by Section 2210.604 in accordance with and subject to the requirements of Chapter 1232, Government Code, other than Section 1232.108 of that chapter, and in accordance with and subject to other provisions of Title 9, Government Code, that apply to issuance of a public security by a state agency. In the event of a conflict, this subchapter controls.

(b) A purpose for which public securities are issued under this chapter constitutes an eligible project for purposes of Chapter 1371, Government Code.

Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED. (a) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue Class 1, Class 2, or Class 3 public securities. The association and the commissioner must approve each tranche of commercial paper issued under a commercial paper program established under this chapter.

(b) The association shall specify in the association's request to the board the maximum principal amount of the public securities and the maximum term of the public securities.

(c) The principal amount determined by the association under Subsection (b) may be increased to include an amount sufficient to:

(1) pay the costs related to issuance of the public securities;

(2) provide a public security reserve fund; and

(3) capitalize interest for the period determined necessary by the association, not to exceed two years.

Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall determine the method of sale, type and form of public security, maximum interest rates, and other terms of the public securities that, in the board's judgment, best achieve the goals of the association and effect the borrowing at the lowest practicable cost. The board may enter into a credit agreement in connection with the public securities.

(b) Public securities must be issued by the board on behalf of the association.

(c) Public securities issued under this chapter are eligible obligations under Section 404.027, Government Code.

Sec. 2210.606. ADDITIONAL COVENANTS. The board may make additional covenants with respect to the public securities and the designated income and receipts of the association pledged to their payment, and provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities, and the administration of those funds and accounts, as provided in the proceedings authorizing the public securities.

Sec. 2210.607. PUBLIC SECURITY PROCEEDS. The proceeds of public securities issued by the board under this subchapter may be deposited with the Texas Treasury Safekeeping Trust Company.

Sec. 2210.608. USE OF PUBLIC SECURITY PROCEEDS. (a) Public security proceeds, including investment income, shall be held in trust for the exclusive use and benefit of the association. The association may use the proceeds to:

- (1) pay incurred claims and operating expenses of the association;
- (2) purchase reinsurance for the association;
- (3) pay the costs of issuing the public securities, and public security administrative expenses, if any;
- (4) provide a public security reserve; and
- (5) pay capitalized interest and principal on the public securities for the period determined necessary by the association.

(b) Any excess public security proceeds remaining after the purposes for which the public securities were issued are satisfied may be used to purchase or redeem outstanding public securities. If there are no outstanding public security obligations or public security administrative expenses, the excess proceeds shall be transferred to the catastrophe reserve trust fund.

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The board and the association shall enter into an agreement under which the association shall provide for the payment of all public security obligations from available funds collected by the association and deposited into the public security obligation revenue fund. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in accordance with Sections 2210.612, 2210.613, and 2210.6135 as applicable. Class 1, Class 2, or Class 3 public securities may be issued on a priority or subordinate lien basis with other Class 1, Class 2, or Class 3 public securities, respectively.

(b) The board shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds and assess a premium surcharge if necessary.

(c) The association shall deposit all revenue collected under Sections 2210.612, 2210.613, and 2210.6135 in the public security obligation revenue fund. Money deposited in the fund may be invested as permitted by general law. Money in the fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses. This may include the board establishing funds and accounts with the comptroller that the board determines are necessary to administer and repay the public security obligations. If the association has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, the board may direct the Texas Treasury

Safekeeping Trust Company to transfer from the public security obligation revenue fund to the appropriate account the amount necessary to pay the public security obligation.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the public security obligation revenue fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association or amounts from the obligation trust fund to the extent provided in the proceedings authorizing the credit agreement.

Sec. 2210.610. PUBLIC SECURITY PAYMENTS. (a) Revenues received from the premium surcharges under Section 2210.613 may be applied only as provided by this subchapter.

(b) The association may pay public security obligations with other legally available funds.

(c) Public security obligations are payable only from sources provided for payment in this subchapter.

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any year from a premium surcharge under Section 2210.613 that exceeds the amount of the public security obligations and public security administrative expenses payable in that year and interest earned on the public security obligation fund may, in the discretion of the association, be:

(1) used to pay public security obligations payable in the subsequent year, offsetting the amount of the premium surcharge that would otherwise be required to be levied for the year under this subchapter;

(2) used to redeem or purchase outstanding public securities; or

(3) deposited in the catastrophe reserve trust fund.

Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a) The association shall pay Class 1 public securities issued under Section 2210.072 from its premium and other revenue.

(b) The association may enter financing arrangements as described by Section 2210.072(d) as necessary to obtain public securities issued under that section. Nothing in this subsection shall prevent the authorization and creation of one or more programs for the issuance of commercial paper before the date of an occurrence that results in insured losses under Section 2210.072(a) so long as no tranche of commercial paper is issued under a commercial paper program until after such an occurrence.

Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a) The association shall pay Class 2 public securities issued under Section 2210.073 as provided by this section. Thirty percent of the cost of the public securities shall be paid through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's

assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association may not recoup an assessment paid under this subsection through a premium surcharge or tax credit.

(b) Seventy percent of the cost of the public securities shall be paid by a nonrefundable premium surcharge collected under this section in an amount set by the commissioner. On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess a premium surcharge to its policyholders as provided by this section. The premium surcharge must be set in an amount sufficient to pay all debt service not already covered by available funds and all related expenses on the public securities.

(c) The premium surcharge under Subsection (b) shall be assessed on all policyholders who reside or have operations in, or whose insured property is located in a catastrophe area for each Texas windstorm and hail insurance policy and each property and casualty insurance policy issued for property located in the catastrophe area. A premium surcharge under Subsection (b) applies to all policies that provide coverage on any premises, locations, operations, or property located in the area described by this subsection for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

(d) A premium surcharge under Subsection (b) is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

Sec. 2210.6135. PAYMENT OF CLASS 3 PUBLIC SECURITIES. (a) The association shall pay Class 3 public securities issued under Section 2210.074 as provided by this section through member assessments. The association shall assess the members of the association an amount not to exceed \$500 million per year for the payment of the losses. The association shall notify each member of the association of the amount of the member's assessment under this section.

(b) The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

(c) A member of the association may not recoup an assessment paid under this section through a premium surcharge or tax credit.

Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The association may request the board to refinance any public securities issued in accordance with Subchapter B-1, whether Class 1, Class 2, or Class 3 public securities, with public securities payable from the same sources as the original public securities.

Sec. 2210.615. SOURCE OF PAYMENT; STATE DEBT NOT CREATED. (a) A public security or credit agreement is payable solely from revenue as provided by this subchapter.

(b) A public security issued under this subchapter, and any related credit agreement, is not a debt of this state or any state agency or political subdivision of this state, and does not constitute a pledge of the faith and credit of this state or any state agency or political subdivision of this state.

(c) Each public security, and any related credit agreement, issued under this subchapter must state on the security's face that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the public security except as provided by this subchapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the public security.

Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY OBLIGATIONS. If public securities under this subchapter are outstanding, the state may not:

(1) take action to limit or restrict the rights of the association to fulfill its responsibility to pay public security obligations; or

(2) in any way impair the rights and remedies of the public security owners until the public securities are fully discharged.

Sec. 2210.617. ENFORCEMENT BY MANDAMUS. A writ of mandamus and any other legal and equitable remedies are available to a party at interest to require the association or another party to fulfill an agreement and to perform functions and duties under:

(1) this subchapter;

(2) the Texas Constitution; or

(3) a relevant public security resolution.

Sec. 2210.618. EXEMPTION FROM TAXATION. A public security issued under this subchapter, any transaction relating to the public security, and profits made from the sale of the public security are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Sec. 2210.619. NO PERSONAL LIABILITY. The members of the association, members of the association board of directors, association employees, the board, the employees of the Texas Public Finance Authority, the commissioner, and department employees are not personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

Sec. 2210.620. AUTHORIZED INVESTMENTS. Public securities issued under this subchapter are authorized investments under:

(1) Subchapter B, Chapter 424;

(2) Subchapter C, Chapter 425; and

(3) Sections 425.203-425.213.

SUBCHAPTER N. LEGISLATIVE OVERSIGHT BOARD

Sec. 2210.651. DEFINITION. In this subchapter, "board" means the windstorm insurance legislative oversight board.

Sec. 2210.652. COMPOSITION OF BOARD. The windstorm insurance legislative oversight board is composed of eight members as follows:

(1) four members of the senate appointed by the lieutenant governor, including the chairperson of the Senate Business and Commerce committee, who shall serve as co-chairperson of the board; and

(2) four members of the house of representatives appointed by the speaker of the house of representatives.

Sec. 2210.653. POWERS AND DUTIES OF BOARD. (a) The board shall:

(1) receive information about rules proposed by the department relating to windstorm insurance and may submit comments to the commissioner on the proposed rules;

(2) monitor windstorm insurance in this state, including:

(A) the adequacy of rates;

(B) the operation of the association; and

(C) the availability of coverage; and

(3) review recommendations for legislation proposed by the department or the association.

(b) The board may request reports and other information from the department and the association as necessary to implement this subchapter.

Sec. 2210.654. REPORT. (a) Not later than November 15 of each even-numbered year, the board shall report on the board's activities under Section 2210.653 to:

(1) the governor;

(2) the lieutenant governor; and

(3) the speaker of the house of representatives.

(b) The report must include:

(1) an analysis of any problems identified; and

(2) recommendations for any legislative action necessary to address those problems and to foster stability, availability, and competition within the windstorm insurance industry.

SECTION 42. Section 941.003, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) A Lloyd's plan is subject to Chapter 2210, as provided by that chapter.

SECTION 43. Section 942.003, Insurance Code, is amended by adding Subsection (f) to read as follows:

(f) An exchange is subject to Chapter 2210, as provided by that chapter.

SECTION 44. The following laws are repealed:

(1) Subdivisions (5) and (12), Section 2210.003, Insurance Code;

(2) Sections 2210.058 and 2210.059, Insurance Code;

(3) Sections 2210.205 and 2210.206, Insurance Code;

(4) Sections 2210.356, 2210.360, and 2210.363, Insurance Code; and

(6) Subchapter G, Chapter 2210, Insurance Code.

SECTION 45. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished effective December 31, 2009.

(b) The commissioner of insurance shall appoint the members of the board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act, not later than December 31, 2009.

(c) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on December 31, 2009. Such a person is eligible for appointment by the commissioner of insurance to the new board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act.

SECTION 46. (a) The commissioner of insurance shall adopt rules as required by Chapter 2210, Insurance Code, as amended by this Act, as soon as possible after the effective date of this Act, but not later than the 30th day after the effective date of this Act.

(b) The Texas Windstorm Insurance Association, through the board of directors of that association, shall propose to the commissioner of insurance amendments to the association's plan of operation as required by Chapter 2210, Insurance Code, as amended by this Act, not later than March 1, 2010.

SECTION 47. Sections 2210.202 and 2210.203, Insurance Code, as amended by this Act, apply to an application for insurance coverage submitted to the Texas Windstorm Insurance Association on or after the effective date of this Act.

SECTION 48. Section 2210.251, Insurance Code, as amended by this Act, applies to an inspection conducted on or after September 1, 2009. Except as otherwise specifically provided by that section, a structure that has been inspected and is the subject of a certificate of compliance issued by the Texas Department of Insurance under Subsection (g), Section 2210.251, Insurance Code, as that section existed immediately before September 1, 2009, is not required to obtain a new inspection certificate to remain eligible for insurance coverage through the Texas Windstorm Insurance Association unless the structure is altered, remodeled, enlarged, or repaired on or after September 1, 2009.

SECTION 49. The changes in law made by this Act in amending Section 2210.251, Insurance Code, take effect September 1, 2009.

SECTION 50. Not later than January 1, 2010, the relevant state agencies shall adopt the contracts required by Section 418.126, Government Code, as added by this Act.

SECTION 51. (a) Except as provided by Subsection (b) of this section or otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

(b) Sections ___ - ___ and 50 of this Act take effect September 1, 2009.

Representative Taylor moved to adopt the conference committee report on **HB 4409**.

The motion to adopt the conference committee report on **HB 4409** prevailed by (Record 1683): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen(C); Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel.

SB 1449 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Deshotel submitted the conference committee report on **SB 1449**.

Representative Deshotel moved to adopt the conference committee report on **SB 1449**.

The motion to adopt the conference committee report on **SB 1449** prevailed by (Record 1684): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter;

Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

Absent — Chisum; Pickett; Pitts.

HR 2924 - ADOPTED
(by Paxton)

The following privileged resolution was laid before the house:

HR 2924

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1742** (the regulation of the discharge of firearms and certain other weapons by certain municipalities) to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1), (2), and (3), are suspended to permit the committee to change text not in disagreement and to add text in proposed Sections 229.003(b)(1) and (2), Local Government Code, so that the subdivisions read as follows:

(1) a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(A) on a tract of land of 10 acres or more and:

(i) more than 1,000 feet from:

(a) the property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment;
and

(b) the property line of a school, hospital, or commercial day-care facility;

(ii) more than 600 feet from:

(a) the property line of a residential subdivision; and

(b) the property line of a multifamily residential complex;

and

(iii) more than 150 feet from a residence or occupied building located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract;

(2) a center fire or rim fire rifle or pistol of any caliber discharged:

(A) on a tract of land of 50 acres or more and:

(i) more than 1,000 feet from:

(a) the property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment;
and

day-care facility; (b) the property line of a school, hospital, or commercial

(ii) more than 600 feet from:

(a) the property line of a residential subdivision; and

(b) the property line of a multifamily residential complex;

and

(iii) more than 300 feet from a residence or occupied building

located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

Explanation: The changes in text are necessary to limit the areas in which certain municipalities can regulate the discharge of certain weapons. The additions are necessary to include the areas around schools, hospitals, and commercial day-care facilities in the areas in which certain municipalities can regulate the discharge of certain weapons.

(2) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text not in disagreement in proposed Section 229.003(c), Local Government Code, in the house version of the bill and in proposed Section 229.002(b), Local Government Code, in the senate version of the bill, that reads as follows:

A municipality may adopt and enforce a regulation prohibiting or restricting excessive noise from the discharge of a firearm in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981.

Explanation: This omission is necessary so that the Act does not permit certain municipalities to adopt and enforce a regulation prohibiting or restricting excessive noise from the discharge of a firearm in certain areas.

HR 2924 was adopted by (Record 1685): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

Absent — Davis, Y.; Driver; Eiland; Farrar; Hunter.

SB 1742 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Paxton submitted the conference committee report on **SB 1742**.

SB 1742 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PHILLIPS: They're trying to figure out the runs on this that y'all have. You're saying that it's only going to be school, hospital, and what else?

REPRESENTATIVE PAXTON: It's schools, hospitals, and residences.

PHILLIPS: Who gets to decide this? If I don't pay taxes—this is outside the city limits, is that correct?

PAXTON: No, this is inside of cities. Actually, it's only cities in Collin County, but it's inside the city.

PHILLIPS: So this bill only applies to the county of Collin in the state?

PAXTON: That's correct.

PHILLIPS: So, if we vote for this bill, we are doing it because you as a Collin County representative are asking us to?

PAXTON: That's correct.

PHILLIPS: So again, for the purposes of your legislative intent, you don't intend for this bill to apply to any other county in the State of Texas other than Collin County, Texas?

PAXTON: I have no desire for it to apply, and it does not apply, to any other county other than Collin.

REMARKS ORDERED PRINTED

Representative Phillips moved to print remarks between Representative Paxton and Representative Phillips.

The motion prevailed.

Representative Paxton moved to adopt the conference committee report on **SB 1742**.

The motion to adopt the conference committee report on **SB 1742** prevailed by (Record 1686): 140 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Geren; Giddings;

Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Gattis; Kolkhorst; Phillips; Thompson.

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

Absent, Excused — Hancock; Kuempel.

Absent — Laubenberg; Lewis.

SB 2442 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the conference committee report on **SB 2442**.

Representative Gallego moved to adopt the conference committee report on **SB 2442**.

The motion to adopt the conference committee report on **SB 2442** prevailed by (Record 1687): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

Absent — Villarreal.

**HB 987 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 987, A bill to be entitled An Act relating to competitive procurement and change order requirements for local governments.

Representative Creighton moved to discharge the conferees and concur in the senate amendments to **HB 987**.

The motion to discharge the conferees and concur in the senate amendments to **HB 987** prevailed by (Record 1688): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

Absent — King, S.; McReynolds; Pierson.

Senate Committee Substitute

CSHB 987, A bill to be entitled An Act relating to competitive procurement requirements for local governments.

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

SECTION 1. Section 44.031(a), Education Code, is amended to read as follows:

(a) Except as provided by this subchapter, all school district contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 [~~\$25,000~~] or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:

- (1) competitive bidding;
- (2) competitive sealed proposals;
- (3) a request for proposals, for services other than construction services;
- (4) an interlocal contract;
- (5) a design/build contract;
- (6) a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager;
- (7) a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility;
- (8) the reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- (9) the formation of a political subdivision corporation under Section 304.001, Local Government Code.

SECTION 2. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.0313 to read as follows:

Sec. 44.0313. PROCEDURES FOR ELECTRONIC BIDS OR PROPOSALS. (a) A school district may receive bids or proposals under this chapter through electronic transmission if the board of trustees of the school district adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

(b) Notwithstanding any other provision of this chapter, an electronic bid or proposal is not required to be sealed. A provision of this chapter that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted under Subsection (a).

SECTION 3. Section 262.003(a), Local Government Code, is amended to read as follows:

(a) Any law that requires a county to follow a competitive procurement [~~bidding~~] procedure in making a purchase requiring the expenditure of \$50,000 [~~\$25,000~~] or less does not apply to the purchase of an item available for purchase from only one supplier.

SECTION 4. Section 262.023(a), Local Government Code, is amended to read as follows:

(a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$50,000 [~~\$25,000~~], the commissioners court of the county must:

- (1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;
- (2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or
- (3) comply with a method described by Subchapter H, Chapter 271.

SECTION 5. Section 262.0245, Local Government Code, is amended to read as follows:

Sec. 262.0245. COMPETITIVE PROCUREMENT [~~BIDDING~~] PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS. A county purchasing agent shall adopt procedures that provide for competitive procurement [~~bidding~~], to the extent practicable under the circumstances, for the county purchase of an item [~~under a contract~~] that is not subject to competitive procurement [~~bidding under Section 262.023~~].

SECTION 6. Section 271.024, Local Government Code, is amended to read as follows:

Sec. 271.024. COMPETITIVE PROCUREMENT [~~BIDDING~~] PROCEDURE APPLICABLE TO CONTRACT. If a governmental entity is required by statute to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than \$50,000 [~~\$25,000~~] from the funds of the entity, the bidding on the contract must be accomplished in the manner provided by this subchapter.

SECTION 7. Section 271.054, Local Government Code, is amended to read as follows:

Sec. 271.054. COMPETITIVE PROCUREMENT [~~BIDDING~~] REQUIREMENT. Before the governing body of an issuer may enter into a contract requiring an expenditure by or imposing an obligation or liability on the issuer, or on a subdivision of the issuer if the issuer is a county, of more than \$50,000 [~~\$25,000~~], the governing body must submit the proposed contract to competitive procurement [~~bidding~~].

SECTION 8. Section 271.153(a), Local Government Code, is amended to read as follows:

(a) The total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to the following:

(1) the balance due and owed by the local governmental entity under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work the contractor is directed to perform by a local governmental entity in connection with the contract; [~~and~~]

(3) reasonable and necessary attorney's fees that are equitable and just;
and

(4) interest as allowed by law.

SECTION 9. Section 271.9051(b), Local Government Code, is amended to read as follows:

(b) In purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received

by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for an expenditure of less than \$100,000 with:

- (1) the lowest bidder; or
- (2) the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

SECTION 10. The heading to Section 281.047, Local Government Code, is amended to read as follows:

Sec. 281.047. CONTRACTS OVER \$50,000 [~~\$10,000~~].

SECTION 11. Section 281.047(a), Local Government Code, is amended to read as follows:

(a) This section applies to a contract that is for materials for, or construction of, facilities and that is for an amount greater than \$50,000 [~~\$10,000~~].

SECTION 12. Section 351.137(b), Local Government Code, is amended to read as follows:

(b) Construction contracts requiring an expenditure of more than \$50,000 [~~\$15,000~~] may be made only after competitive bidding as provided by Subchapter B, Chapter 271.

SECTION 13. Section 375.221, Local Government Code, is amended to read as follows:

Sec. 375.221. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS. (a) A contract, other than a contract for services, for more than \$50,000 [~~\$15,000~~] for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, may be entered into only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 14th [~~15th~~] day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement if:

- (1) there is an emergency;
- (2) the needed materials are available from only one source;
- (3) in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement; or
- (4) after solicitation, it is ascertained that there will be only one bidder.

(b) If a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is for an estimated amount of more than \$50,000 [~~\$15,000 but less than \$25,000~~] or for a duration of more than two years, competitive sealed proposals [~~bids~~] shall be asked from at least three persons.

SECTION 14. Section 54.054(a), Transportation Code, is amended to read as follows:

(a) Except as otherwise provided by this chapter, the board may award a contract involving the expenditure of funds in excess of the amount applicable to an expenditure of funds by a municipality under Section 252.021(a), Local Government Code, [~~more than \$25,000~~] only by competitive bidding.

SECTION 15. Section 44.033, Education Code, is repealed.

SECTION 16. Section 271.159, Local Government Code, is repealed.

SECTION 17. The change in law made by this Act applies only to a claim that arises under a contract executed on or after the effective date of this Act. A claim that arises under a contract executed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 18. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 4275 - VOTE RECONSIDERED

Representatives Menendez and Darby moved to reconsider the vote by which the conference committee report on **HB 4275** was adopted.

The motion to reconsider prevailed by (Record 1689): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

Absent — Aycock; Cohen; King, S.; Kleinschmidt; Laubenberg; Maldonado; Strama.

HB 4275 - ADOPTION OF CONFERENCE COMMITTEE REPORT

The conference committee report on **HB 4275** was submitted earlier today and was adopted by Record No. 1605.

Representative Menendez moved to adopt the conference committee report on **HB 4275**.

The motion to adopt the conference committee report on **HB 4275** prevailed by (Record 1690): 139 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Christian; Crabb; Flynn; Madden; Phillips; Weber.

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

Absent, Excused — Hancock; Kuempel.

Absent — Laubenberg.

HB 103 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative F. Brown submitted the following conference committee report on **HB 103**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 103** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Patrick
Ogden
Deuell

F. Brown
McClendon
Branch
Villarreal

On the part of the senate

On the part of the house

HB 103, A bill to be entitled An Act relating to health benefit plans for students at institutions of higher education and the operation of certain health benefit plans through student health centers at certain institutions of higher education.

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

SECTION 1. The heading to Section 51.952, Education Code, is amended to read as follows:

Sec. 51.952. STUDENT HEALTH INSURANCE AT MEDICAL AND DENTAL UNITS.

SECTION 2. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9521 to read as follows:

Sec. 51.9521. STUDENT HEALTH INSURANCE AT GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) In this section:

(1) "Health benefit plan" means any health benefit plan regulated under the Insurance Code, including:

(A) an individual, group, or blanket health insurance policy; or

(B) an evidence of coverage issued by a health maintenance organization.

(2) "High deductible health plan" has the meaning assigned by Section 223, Internal Revenue Code of 1986.

(3) "General academic teaching institution" and "university system" have the meanings assigned by Section 61.003.

(b) A general academic teaching institution with a total student enrollment of more than 20,000 students in one or more semesters of the preceding academic year shall offer or sponsor, directly or through the university system, if any, of which the institution is a component, one or more health benefit plans for the students of the institution. At least one health benefit plan offered under this section must be a high deductible health plan.

(c) When offering the health benefit plan to students, the institution shall collect information from each student that declines to accept the coverage offered through the institution, including whether the decision to decline coverage was as a result of:

(1) the student's existing health benefit plan coverage from another source;

(2) the cost of the health benefit plan;

(3) the type of health benefit plan offered by the institution; or

(4) the student not desiring a health benefit plan at that time.

(d) Data collected by the institution may be provided to the public in the aggregate.

SECTION 3. The heading to Section 51.953, Education Code, is amended to read as follows:

Sec. 51.953. ~~[CERTAIN REVENUE RECEIVED FROM]~~ STUDENT HEALTH CENTER ~~[SERVICES]~~.

SECTION 4. Section 51.953, Education Code, is amended by adding Subsections (c), (d), (e), (f), (g), and (h) to read as follows:

(c) A student health center of an institution of higher education with a total student enrollment of more than 20,000 students in one or more semesters of the preceding academic year shall assist a student or other person entitled to obtain health care services through the health center in receiving benefits under a health benefit plan in which the student or other person is an enrollee by filing or having a claim filed with the issuer of the health benefit plan on behalf of the student or other person. The institution may contract with a third-party billing service to provide the assistance required by this subsection.

(d) An institution of higher education, on behalf of the institution's student health center, may contract with a health benefit plan issuer that engages in the business of insurance in the health service region established by the Department of State Health Services in which the institution is located to provide a health benefit plan under which health care services are provided to students or other persons entitled to obtain health care services through the student health center who are covered by the plan.

(e) An institution of higher education described by Subsection (c) must enter into contracts with at least three of the largest health benefit plan issuers that engage in the business of insurance in the health service region established by the Department of State Health Services in which the institution is located under which the institution's student health center:

(1) serves as a preferred provider under the preferred provider benefit plans operated by the issuers; or

(2) operates as a provider of in-network coverage under the health maintenance organizations operated by the issuers.

(f) An institution of higher education may authorize the institution's student health center to accept a student's medical services fee, as charged by the institution under Chapter 54, as payment toward:

(1) a copayment;

(2) a deductible; or

(3) a charge for a service not covered by the student's health benefit plan.

(g) Money received by the student health center as a result of a claim filed by or on behalf of a student through a health benefit plan shall be retained for use by the student health center.

(h) Not later than January 15 of each year, the governing board of an institution of higher education described by Subsection (c) shall report to the legislature the amount of the following sources of income for funding the institution's student health center:

(1) money received from student fees and charges;

(2) money received from the operation of the student health center's pharmacy;

(3) money received as a result of a claim filed by or on behalf of the institution's student health center under a health benefit plan sponsored by or administered on behalf of the institution; and

(4) money received as a result of a claim filed by or on behalf of the institution's student health center under a health benefit plan other than a plan sponsored by or administered on behalf of the institution.

SECTION 5. Section 51.9521, Education Code, as added by this Act, applies beginning with the 2010 fall semester.

SECTION 6. This Act takes effect September 1, 2009.

Representative F. Brown moved to adopt the conference committee report on **HB 103**.

The motion to adopt the conference committee report on **HB 103** prevailed by (Record 1691): 139 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Aycock; Gattis; Patrick; Phillips; Weber.

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

Absent, Excused — Hancock; Kuempel.

Absent — Driver; Paxton.

HB 171 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Olivo submitted the following conference committee report on **HB 171**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 171** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Gallegos
Shapiro
Watson

Olivo
Allen
Patrick
Aycock
Eissler

On the part of the senate

On the part of the house

HB 171, A bill to be entitled An Act relating to consideration of mitigating factors in determining appropriate disciplinary action to be taken against a public school student.

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

SECTION 1. Section 37.001(a), Education Code, is amended to read as follows:

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify that ~~whether~~ consideration will be ~~is~~ given, as a factor in each ~~a~~ decision concerning ~~to order~~ suspension, removal to a disciplinary alternative education program, [or] expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and

(8) provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom and on school grounds;

(B) disciplining students; and

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

SECTION 2. This Act applies beginning with the 2009-2010 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Olivo moved to adopt the conference committee report on **HB 171**.

The motion to adopt the conference committee report on **HB 171** prevailed by (Record 1692): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1692. I intended to vote no.

Christian

HR 2961 - ADOPTED (by Lucio)

The following privileged resolution was laid before the house:

HR 2961

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 431**, (design, construction, and renovation standards for state buildings and facilities), to consider and take action on the following matter:

(1) Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following:

SECTION 3. The heading to Chapter 46, Education Code, is amended to read as follows:

CHAPTER 46. ~~[ASSISTANCE WITH]~~ INSTRUCTIONAL FACILITIES AND ASSISTANCE WITH PAYMENT OF EXISTING DEBT

Explanation: The change is necessary to change the heading of Chapter 46, Education Code.

(2) Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following:

SECTION 4. Chapter 46, Education Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. STANDARDS FOR INSTRUCTIONAL FACILITIES

Sec. 46.101. DEFINITION. In this subchapter, "instructional facility" has the meaning assigned by Section 46.001.

Sec. 46.102. ENERGY EFFICIENCY AND CONSERVATION STANDARDS FOR INSTRUCTIONAL FACILITIES. (a) In this section, "energy office" means the State Energy Conservation Office.

(b) The energy office shall adopt energy efficiency and conservation standards for the design, construction, and major renovation of instructional facilities that school districts may adopt or use to achieve long-term savings in energy and water costs through innovative building techniques.

(c) The standards adopted under Subsection (b) must match high-performance building certification standards that:

(1) are developed and revised through a consensus-based process or by a municipally owned utility in this state;

(2) provide minimum requirements for energy use, natural resources use, and indoor air quality;

- (3) require substantiating documentation for certification;
(4) employ third-party, post-construction review and verification for certification; and
(5) the energy office determines are nationally recognized in the building industry, such as:
(A) the Texas Collaborative for High Performance Schools (TX-CHPS) Criteria;
(B) the Green Building Initiative's Green Globes program;
(C) the Leadership in Energy and Environmental Design (LEED) Green Building Rating System; or
(D) the Austin Energy Green Building Program.

(d) The energy office may update the standards adopted under this section not more frequently than once every three years.

(e) The energy office shall prepare an analysis of the typical initial building costs and projected energy and other savings associated with the implementation of the standards adopted by the energy office under this section. The office shall publish the analysis and make copies available to all school districts in this state.

(f) The energy office shall adopt rules necessary to administer this section.

Sec. 46.103. STATE AND FEDERAL FUNDS. The energy office shall, to the extent possible, assist school districts to obtain state and federal funding for implementing the standards adopted under this subchapter.

Explanation: The change is necessary to establish energy efficiency standards and conservation standards for certain school district facilities.

(3) Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following:

SECTION 6. Not later than July 1, 2010, the State Energy Conservation Office shall adopt rules establishing energy efficiency, conservation, and indoor air quality standards for the design, construction, and renovation of public school instructional facilities as required by Section 46.102, Education Code, as added by this Act.

Explanation: The change is necessary to implement the energy efficiency standards and conservation standards for certain school district facilities.

HR 2961 was adopted by (Record 1693): 95 Yeas, 47 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Branch; Burnam; Castro; Chavez; Cohen; Coleman; Crownover; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Keffer; Kent; King, P.; King, S.; King, T.; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Corte; Crabb; Craddock; Creighton; Darby; Davis, J.; Elkins; Fletcher; Flynn; Gattis; Geren; Hartnett; Hilderbran; Howard, C.; Hughes; Isett; Jackson; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Merritt; Miller, D.; Miller, S.; Orr; Parker; Paxton; Phillips; Riddle; Sheffield; Shelton; Solomons; Truitt; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

Absent — Harper-Brown; Jones; Patrick; Ritter.

HB 431 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Lucio submitted the following conference committee report on **HB 431**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 431** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa
Averitt
Williams
Whitmire

On the part of the senate

Lucio
Anchia
Keffer
Otto

On the part of the house

HB 431, A bill to be entitled An Act relating to energy efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain government buildings and facilities.

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

SECTION 1. Subchapter I, Chapter 2166, Government Code, is amended by adding Section 2166.409 to read as follows:

Sec. 2166.409. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR STATE BUILDINGS. (a) This section applies to the construction of a state building, or the renovation of a state building the cost of which is more than 50 percent of the value of the building, including a building for education, assembly, or office occupancy under the charge and control of the Texas Department of Transportation, the Parks and Wildlife Department, the Texas Department of Housing and Community Affairs, the Texas State Affordable Housing Corporation, or the Veterans' Land Board that is otherwise exempt from this

chapter under Section 2166.003. This section does not apply to a facility under the charge and control of the Texas Department of Criminal Justice or the Texas Youth Commission.

(b) A building to which this section applies must be designed and constructed or renovated so that the building achieves certification under a high-performance building standard approved by the commission that:

(1) is developed and revised through a nationally recognized consensus-based process or by a municipally owned utility in this state;

(2) provides minimum requirements for energy use, natural resources use, and indoor air quality;

(3) requires substantiating documentation for certification;

(4) requires on-site, third-party, post-construction review and verification for certification, or a third-party, post-construction, rigorous review of documentation and verification for certification; and

(5) encourages the use of materials or products manufactured or produced in this state.

(c) The commission shall appoint an advisory committee to advise the commission in determining which high-performance building standards to approve for use under Subsection (b). At least once each year the advisory committee shall review available high-performance building standards and make recommendations to the commission. The advisory committee consists of:

(1) the director of facilities construction and space management appointed under Section 2152.104, who serves as the presiding officer of the committee;

(2) seven individuals with experience and expertise in high-performance buildings or related products, including experience and expertise in energy efficiency, water efficiency, or low-impact site development, with one individual selected from each of the following lists of nominees:

(A) a list submitted by the president of the Texas Society of Architects;

(B) a list submitted by the presidents of the Texas Council of Engineering Companies and Texas Society of Professional Engineers;

(C) a list submitted by the president of the Associated Builders and Contractors of Texas and the presiding officer of the executive committee of the Associated General Contractors, Texas Building Branch;

(D) a list submitted by the president of the Texas chapter of the Urban Land Institute;

(E) a list submitted by the president of the Texas chapter of the American Society of Landscape Architects;

(F) a list submitted by the president of the Texas Chemical Council; and

(G) a list of registered interior designers submitted by the president of the Texas Association of Interior Design;

(3) one individual appointed by the comptroller who represents the State Energy Conservation Office;

(4) one individual representing a state agency that has a substantial ongoing construction program; and

(5) one individual representing the interests of historically underutilized businesses.

(d) In addition to meeting the requirements of Subsection (b), a building to which this section applies must be designed and constructed or renovated so that the building:

(1) meets the American Society of Heating, Refrigeration and Air Conditioning Engineers energy standards in effect on September 1, 2009, or the International Energy Conservation Code in effect on September 1, 2009, or an updated version of those standards or that code adopted by the State Energy Conservation Office under Subsection (e), if applicable; and

(2) achieves a 15 percent reduction in water use when compared to water use based on plumbing fixtures selected in accordance with the Energy Policy Act of 1992 (Pub. L. No. 102-486).

(e) If the State Energy Conservation Office determines, based on written recommendations from the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System, that the latest published edition of the Heating, Refrigeration and Air Conditioning Engineers energy standards or the International Energy Conservation Code will result in energy efficiency and air quality that is equivalent to or better than the energy efficiency and air quality achievable under the editions described by Subsection (d)(1), the office by rule shall adopt the equivalent or more stringent editions and substitute them for the standards or code described by Subsection (d)(1). The rule, if adopted, must establish an effective date for the new standards or code but not earlier than nine months after the date of adoption. The laboratory shall make its recommendations not later than six months after the date of publication of the new editions.

(f) A contract between the commission and a private design professional relating to services in connection with the construction or renovation of a building to which this section applies must provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy the requirements of Subsection (b) or (d) is considered an additional service rather than a basic service.

SECTION 2. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2311 to read as follows:

CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL GOVERNMENTAL FACILITIES

Sec. 2311.001. DEFINITIONS. In this chapter:

(1) "Combined heating and power system" means a system that:

(A) is located on the site of a facility;

(B) is the primary source of both electricity and thermal energy for the facility;

(C) can provide all of the electricity needed to power the facility's critical emergency operations for at least 14 days; and

(D) has an overall efficiency of energy use that exceeds 60 percent.

(2) "Critical governmental facility" means a building owned by the state or a political subdivision of the state that is expected to:

(A) be continuously occupied;
(B) maintain operations for at least 6,000 hours each year;
(C) have a peak electricity demand exceeding 500 kilowatts; and
(D) serve a critical public health or public safety function during a natural disaster or other emergency situation that may result in a widespread power outage, including a:

- (i) command and control center;
- (ii) shelter;
- (iii) prison or jail;
- (iv) police or fire station;
- (v) communications or data center;
- (vi) water or wastewater facility;
- (vii) hazardous waste storage facility;
- (viii) biological research facility;
- (ix) hospital; or
- (x) food preparation or food storage facility.

Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When constructing or extensively renovating a critical governmental facility or replacing major heating, ventilation, and air-conditioning equipment for a critical governmental facility, the entity with charge and control of the facility shall evaluate whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period. Notwithstanding Chapter 2302, the entity may equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs.

SECTION 3. The heading to Chapter 46, Education Code, is amended to read as follows:

CHAPTER 46. [~~ASSISTANCE WITH~~] INSTRUCTIONAL FACILITIES AND ASSISTANCE WITH PAYMENT OF EXISTING DEBT

SECTION 4. Chapter 46, Education Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. STANDARDS FOR INSTRUCTIONAL FACILITIES

Sec. 46.101. DEFINITION. In this subchapter, "instructional facility" has the meaning assigned by Section 46.001.

Sec. 46.102. ENERGY EFFICIENCY AND CONSERVATION STANDARDS FOR INSTRUCTIONAL FACILITIES. (a) In this section, "energy office" means the State Energy Conservation Office.

(b) The energy office shall adopt energy efficiency and conservation standards for the design, construction, and major renovation of instructional facilities that school districts may adopt or use to achieve long-term savings in energy and water costs through innovative building techniques.

(c) The standards adopted under Subsection (b) must match high-performance building certification standards that:

(1) are developed and revised through a consensus-based process or by a municipally owned utility in this state;

(2) provide minimum requirements for energy use, natural resources use, and indoor air quality;

(3) require substantiating documentation for certification;

(4) employ third-party, post-construction review and verification for certification; and

(5) the energy office determines are nationally recognized in the building industry, such as:

(A) the Texas Collaborative for High Performance Schools (TX-CHPS) Criteria;

(B) the Green Building Initiative's Green Globes program;

(C) the Leadership in Energy and Environmental Design (LEED) Green Building Rating System; or

(D) the Austin Energy Green Building Program.

(d) The energy office may update the standards adopted under this section not more frequently than once every three years.

(e) The energy office shall prepare an analysis of the typical initial building costs and projected energy and other savings associated with the implementation of the standards adopted by the energy office under this section. The office shall publish the analysis and make copies available to all school districts in this state.

(f) The energy office shall adopt rules necessary to administer this section.

Sec. 46.103. STATE AND FEDERAL FUNDS. The energy office shall, to the extent possible, assist school districts to obtain state and federal funding for implementing the standards adopted under this subchapter.

SECTION 5. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.115 to read as follows:

Sec. 55.115. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR CERTAIN FACILITIES. (a) This section applies to the construction of an institution of higher education building, structure, or other facility, or the renovation of a building, structure, or other facility the cost of which is more than 50 percent of the value of the building, structure, or other facility, any part of the construction or renovation of which is financed by revenue bonds issued under this subchapter.

(b) A building, structure, or other facility to which this section applies must be designed and constructed or renovated so that the building, structure, or other facility complies with high-performance building standards, approved by the board of regents of the institution, that provide minimum requirements for energy use, natural resources use, and indoor air quality. In approving high-performance building standards, a board of regents shall consider the standards approved by the Texas Facilities Commission under Section 2166.409, Government Code, and may solicit and consider recommendations from the advisory committee appointed under that section.

(c) In addition to meeting the requirements of Subsection (b), a building, structure, or other facility to which this section applies must be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by the State Energy Conservation Office under Section 447.004, Government Code.

SECTION 6. Not later than July 1, 2010, the State Energy Conservation Office shall adopt rules establishing energy efficiency, conservation, and indoor air quality standards for the design, construction, and renovation of public school instructional facilities as required by Section 46.102, Education Code, as added by this Act.

SECTION 7. Section 55.115, Education Code, and Section 2166.409, Government Code, as added by this Act, apply only to an institution of higher education building, structure, or other facility or a state building for which the contract for design services is entered into on or after September 1, 2011.

SECTION 8. This Act does not make an appropriation. A provision in the Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 9. This Act takes effect September 1, 2009.

Representative Lucio moved to adopt the conference committee report on **HB 431**.

The motion to adopt the conference committee report on **HB 431** prevailed by (Record 1694): 84 Yeas, 62 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones; Keffer; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Miller, S.; Moody; Naishat; Oliveira; Olivo; Ortiz; Otto; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Strama; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Branch; Brown, B.; Brown, F.; Button; Chisum; Christian; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Hunter; Isett; Jackson; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Madden; Merritt; Miller, D.; Morrison; Orr; Parker; Patrick; Paxton; Phillips; Pitts; Riddle; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Truitt; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1694. I intended to vote no.

Callegari

I was shown voting yes on Record No. 1694. I intended to vote no.

Taylor

HB 635 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 635**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 635** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Averitt
Lucio
Van de Putte
Zaffirini

Guillen
Hughes
Parker
Rodriguez
Hochberg

On the part of the senate

On the part of the house

HB 635, A bill to be entitled An Act relating to the authority of the Texas Education Agency to seek, accept, determine eligibility for, and distribute grants available for the benefit of public education and the establishment of professional development institutes and payment of grants to teachers who complete those institutes.

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

SECTION 1. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.031 to read as follows:

Sec. 7.031. GRANTS. (a) The agency may seek, accept, and distribute grants awarded by the federal government or any other public or private entity for the benefit of public education, subject to the limitations or conditions imposed by the terms of the grants or by other law.

(b) Unless otherwise prohibited by federal law, the commissioner may determine, solely for purposes of the program's eligibility to receive federal grant funds, for the purpose of technology services and support, that a Head Start program operated in this state by a school district or a community-based organization serves the function of an elementary school by providing elementary education at one or more program facilities.

(c) A determination by the commissioner under Subsection (b):

(1) does not entitle a Head Start program to receive state funds for which the program would not otherwise be eligible;

(2) may not reduce the amount of federal grant funds available for school districts and open-enrollment charter schools; and

(3) may not be appealed.

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, 2009.

Representative Guillen moved to adopt the conference committee report on **HB 635**.

The motion to adopt the conference committee report on **HB 635** prevailed by (Record 1695): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel.

Absent — Button; Coleman; Dunnam.

(Speaker in the chair)

HB 1218 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative D. Howard submitted the following conference committee report on **HB 1218**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1218** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Watson
Deuell
Van de Putte

D. Howard
Coleman
Kolkhorst
Rose

On the part of the senate

On the part of the house

HB 1218, A bill to be entitled An Act relating to programs to exchange certain health information between the Health and Human Services Commission and certain health care entities and facilities.

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

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter V to read as follows:

SUBCHAPTER V. HEALTH INFORMATION EXCHANGE SYSTEMS

Sec. 531.901. DEFINITIONS. In this subchapter:

(1) "Electronic health record" means an electronic record of aggregated health-related information concerning a person that conforms to nationally recognized interoperability standards and that can be created, managed, and consulted by authorized health care providers across two or more health care organizations.

(2) "Electronic medical record" means an electronic record of health-related information concerning a person that can be created, gathered, managed, and consulted by authorized clinicians and staff within a single health care organization.

(3) "Health information exchange system" means a health information exchange system created under this subchapter that moves health-related information among entities according to nationally recognized standards.

(4) "Local or regional health information exchange" means a health information exchange operating in this state that securely exchanges electronic health information, including information for patients receiving services under the child health plan or Medicaid program, among hospitals, clinics, physicians' offices, and other health care providers that are not owned by a single entity or included in a single operational unit or network.

Sec. 531.902. ELECTRONIC HEALTH INFORMATION EXCHANGE PILOT PROJECT. (a) The commission shall establish a pilot project in at least one urban area of this state to determine the feasibility, costs, and benefits of exchanging secure electronic health information between the commission and local or regional health information exchanges. The pilot project must include the participation of at least two local or regional health information exchanges.

(b) A local or regional health information exchange selected for the pilot project under this section must possess a functioning health information exchange database that exchanges secure electronic health information among hospitals, clinics, physicians' offices, and other health care providers that are not each owned by a single entity or included in a single operational unit or network. The information exchanged by the local or regional health information exchange must include health information for patients receiving services from state and federal health and human services programs administered by the commission.

(c) In developing the pilot project under this section, the commission shall:

(1) establish specific written guidelines, in conjunction with the health information exchanges participating in the pilot project, to:

(A) ensure that information exchanged through the pilot project is used only for the patient's benefit; and

(B) specify which health care providers will use which data elements obtained from the commission and for what purposes, including purposes related to reducing costs, improving access, and improving quality of care for patients; and

(2) ensure compliance with all state and federal laws and rules related to the transmission of health information, including state privacy laws and the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and rules adopted under that Act.

(d) The commission and the health information exchanges participating in the pilot project shall at a minimum exchange a patient's medication history under the pilot project. If the executive commissioner determines that there will be no significant cost to the state, the commission shall apply for and actively pursue any waiver from the federal Centers for Medicare and Medicaid Services that may be necessary for the pilot project and shall actively pursue a waiver to use an electronic alternative to the requirement for handwritten certification of certain drugs under 42 C.F.R. Section 447.152. The pilot project may include additional health care information, either at the inception of the project or as part of a subsequent expansion of the scope of the project.

(e) The pilot project shall initially use the method of secure transmission that is available at the time implementation of the pilot project begins, and subsequently move toward full interoperability in conjunction with the health information exchange system under Section 531.903.

(f) The commission may accept gifts, grants, and donations from any public or private source for the operation of the pilot project.

Sec. 531.903. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM. (a) The commission shall develop an electronic health information exchange system to improve the quality, safety, and efficiency of health care services provided under the child health plan and Medicaid programs. In developing the system, the commission shall ensure that:

(1) the confidentiality of patients' health information is protected and the privacy of those patients is maintained in accordance with applicable federal and state law, including:

(A) Section 1902(a)(7), Social Security Act (42 U.S.C. Section 1396a(a)(7));

(B) the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191);

(C) Chapter 552, Government Code;

(D) Subchapter G, Chapter 241, Health and Safety Code;

(E) Section 12.003, Human Resources Code; and

(F) federal and state rules and regulations, including:

(i) 42 C.F.R. Part 431, Subpart F; and

(ii) 45 C.F.R. Part 164;

(2) appropriate information technology systems used by the commission and health and human services agencies are interoperable;

(3) the system and external information technology systems are interoperable in receiving and exchanging appropriate electronic health information as necessary to enhance:

(A) the comprehensive nature of the information contained in electronic health records; and

(B) health care provider efficiency by supporting integration of the information into the electronic health record used by health care providers;

(4) the system and other health information systems not described by Subdivision (3) and data warehousing initiatives are interoperable; and

(5) the system has the elements described by Subsection (b).

(b) The health information exchange system must include the following elements:

(1) an authentication process that uses multiple forms of identity verification before allowing access to information systems and data;

(2) a formal process for establishing data-sharing agreements within the community of participating providers in accordance with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5);

(3) a method by which the commission may open or restrict access to the system during a declared state emergency;

(4) the capability of appropriately and securely sharing health information with state and federal emergency responders;

(5) compatibility with the Nationwide Health Information Network (NHIN) and other national health information technology initiatives coordinated by the Office of the National Coordinator for Health Information Technology;

(6) technology that allows for patient identification across multiple systems; and

(7) the capability of allowing a health care provider to access the system if the provider has technology that meets current national standards.

(c) The commission shall implement the health information exchange system in stages as described by Sections 531.905 through 531.908, except that the commission may deviate from those stages if technological advances make a deviation advisable or more efficient.

(d) The health information exchange system must be developed in accordance with the Medicaid Information Technology Architecture (MITA) initiative of the Center for Medicaid and State Operations and conform to other standards required under federal law.

Sec. 531.904. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM ADVISORY COMMITTEE. (a) The commission shall establish the Electronic Health Information Exchange System Advisory Committee to assist the commission in the performance of the commission's duties under this subchapter.

(b) The executive commissioner shall appoint to the advisory committee at least 12 and not more than 16 members who have an interest in health information technology and who have experience in serving persons receiving health care through the child health plan and Medicaid programs.

(c) The advisory committee must include the following members:

(1) Medicaid providers;

(2) child health plan program providers;

(3) fee-for-service providers;

(4) at least one representative of the Texas Health Services Authority established under Chapter 182, Health and Safety Code;

(5) at least one representative of each health and human services agency;

(6) at least one representative of a major provider association;

(7) at least one representative of a health care facility;

(8) at least one representative of a managed care organization;

(9) at least one representative of the pharmaceutical industry;

(10) at least one representative of Medicaid recipients and child health plan enrollees;

(11) at least one representative of a local or regional health information exchange; and

(12) at least one representative who is skilled in pediatric medical informatics.

(d) The members of the advisory committee must represent the geographic and cultural diversity of the state.

(e) The executive commissioner shall appoint the presiding officer of the advisory committee.

(f) The advisory committee shall advise the commission on issues regarding the development and implementation of the electronic health information exchange system, including any issue specified by the commission and the following specific issues:

- (1) data to be included in an electronic health record;
- (2) presentation of data;
- (3) useful measures for quality of service and patient health outcomes;
- (4) federal and state laws regarding privacy and management of private patient information;
- (5) incentives for increasing health care provider adoption and usage of an electronic health record and the health information exchange system; and
- (6) data exchange with local or regional health information exchanges to enhance:

(A) the comprehensive nature of the information contained in electronic health records; and

(B) health care provider efficiency by supporting integration of the information into the electronic health record used by health care providers.

(g) The advisory committee shall collaborate with the Texas Health Services Authority to ensure that the health information exchange system is interoperable with, and not an impediment to, the electronic health information infrastructure that the authority assists in developing.

Sec. 531.905. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM STAGE ONE: ELECTRONIC HEALTH RECORD. (a) In stage one of implementing the health information exchange system, the commission shall develop and establish an electronic health record for each person who receives medical assistance under the Medicaid program. The electronic health record must be available through a browser-based format.

(b) The commission shall consult and collaborate with, and accept recommendations from, physicians and other stakeholders to ensure that electronic health records established under this section support health information exchange with electronic medical records systems in use by physicians in the public and private sectors.

(c) The executive commissioner shall adopt rules specifying the information required to be included in the electronic health record. The required information may include, as appropriate:

- (1) the name and address of each of the person's health care providers;
- (2) a record of each visit to a health care provider, including diagnoses, procedures performed, and laboratory test results;
- (3) an immunization record;
- (4) a prescription history;
- (5) a list of due and overdue Texas Health Steps medical and dental checkup appointments; and
- (6) any other available health history that health care providers who provide care for the person determine is important.

(d) Information under Subsection (c) may be added to any existing electronic health record or health information technology and may be exchanged with local and regional health information exchanges.

(e) The commission shall make an electronic health record for a patient available to the patient through the Internet.

Sec. 531.9051. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM STAGE ONE: ENCOUNTER DATA. In stage one of implementing the health information exchange system, the commission shall require for purposes of the implementation each managed care organization with which the commission contracts under Chapter 533 for the provision of Medicaid managed care services or Chapter 62, Health and Safety Code, for the provision of child health plan program services to submit to the commission complete and accurate encounter data not later than the 30th day after the last day of the month in which the managed care organization adjudicated the claim.

Sec. 531.906. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM STAGE ONE: ELECTRONIC PRESCRIBING. (a) In stage one of implementing the health information exchange system, the commission shall support and coordinate electronic prescribing tools used by health care providers and health care facilities under the child health plan and Medicaid programs.

(b) The commission shall consult and collaborate with, and accept recommendations from, physicians and other stakeholders to ensure that the electronic prescribing tools described by Subsection (a):

(1) are integrated with existing electronic prescribing systems otherwise in use in the public and private sectors; and

(2) to the extent feasible:

(A) provide current payer formulary information at the time a health care provider writes a prescription; and

(B) support the electronic transmission of a prescription.

(c) The commission may take any reasonable action to comply with this section, including establishing information exchanges with national electronic prescribing networks or providing health care providers with access to an Internet-based prescribing tool developed by the commission.

(d) The commission shall apply for and actively pursue any waiver to the child health plan program or the state Medicaid plan from the federal Centers for Medicare and Medicaid Services or any other federal agency as necessary to remove an identified impediment to supporting and implementing electronic prescribing tools under this section, including the requirement for handwritten certification of certain drugs under 42 C.F.R. Section 447.512. If the commission, with assistance from the Legislative Budget Board, determines that the implementation of operational modifications in accordance with a waiver obtained as required by this subsection has resulted in cost increases in the child health plan or Medicaid program, the commission shall take the necessary actions to reverse the operational modifications.

Sec. 531.907. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM STAGE TWO: EXPANSION. (a) Based on the recommendations of the advisory committee established under Section 531.904 and feedback provided by interested parties, the commission in stage two of implementing the health information exchange system may expand the system by:

(1) providing an electronic health record for each child enrolled in the child health plan program;

(2) including state laboratory results information in an electronic health record, including the results of newborn screenings and tests conducted under the Texas Health Steps program, based on the system developed for the health passport under Section 266.006, Family Code;

(3) improving data-gathering capabilities for an electronic health record so that the record may include basic health and clinical information in addition to available claims information, as determined by the executive commissioner;

(4) using evidence-based technology tools to create a unique health profile to alert health care providers regarding the need for additional care, education, counseling, or health management activities for specific patients; and

(5) continuing to enhance the electronic health record created under Section 531.905 as technology becomes available and interoperability capabilities improve.

(b) In expanding the system, the commission shall consult and collaborate with, and accept recommendations from, physicians and other stakeholders to ensure that electronic health records provided under this section support health information exchange with electronic medical records systems in use by physicians in the public and private sectors.

Sec. 531.908. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM STAGE THREE: EXPANSION. In stage three of implementing the health information exchange system, the commission may expand the system by:

(1) developing evidence-based benchmarking tools that can be used by health care providers to evaluate their own performances on health care outcomes and overall quality of care as compared to aggregated performance data regarding peers; and

(2) expanding the system to include state agencies, additional health care providers, laboratories, diagnostic facilities, hospitals, and medical offices.

Sec. 531.909. INCENTIVES. The commission and the advisory committee established under Section 531.904 shall develop strategies to encourage health care providers to use the health information exchange system, including incentives, education, and outreach tools to increase usage.

Sec. 531.910. REPORTS. (a) The commission shall provide an initial report to the Senate Committee on Health and Human Services or its successor, the House Committee on Human Services or its successor, and the House Committee on Public Health or its successor regarding the health information exchange system not later than January 1, 2011, and shall provide a subsequent report to those committees not later than January 1, 2013. Each report must:

(1) describe the status of the implementation of the system;

(2) specify utilization rates for each health information technology implemented as a component of the system; and

(3) identify goals for utilization rates described by Subdivision (2) and actions the commission intends to take to increase utilization rates.

(b) This section expires September 2, 2013.

Sec. 531.911. RULES. The executive commissioner may adopt rules to implement Sections 531.903 through 531.910.

Sec. 531.912. QUALITY OF CARE HEALTH INFORMATION EXCHANGE WITH CERTAIN NURSING FACILITIES. (a) In this section, "nursing facility" means a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, that provides long-term care services, as defined by Section 22.0011, Human Resources Code, to medical assistance recipients.

(b) If feasible, the executive commissioner by rule shall establish a quality of care health information exchange with nursing facilities that choose to participate in a program designed to improve the quality of care and services provided to medical assistance recipients. Subject to Subsection (f), the program may provide incentive payments in accordance with this section to encourage facilities to participate in the program.

(c) In establishing a quality of care health information exchange program under this section, the executive commissioner shall, subject to Subsection (d), exchange information with participating nursing facilities regarding performance measures. The performance measures:

(1) must be:

(A) recognized by the executive commissioner as valid indicators of the overall quality of care received by medical assistance recipients; and

(B) designed to encourage and reward evidence-based practices among nursing facilities; and

(2) may include measures of:

(A) quality of life;

(B) direct-care staff retention and turnover;

(C) recipient satisfaction;

(D) employee satisfaction and engagement;

(E) the incidence of preventable acute care emergency room services use;

(F) regulatory compliance;

(G) level of person-centered care; and

(H) level of occupancy or of facility utilization.

(d) The executive commissioner shall maximize the use of available information technology and limit the number of performance measures adopted under Subsection (c) to achieve administrative cost efficiency and avoid an unreasonable administrative burden on participating nursing facilities.

(e) The executive commissioner may:

(1) determine the amount of any incentive payment under the program;
and

(2) enter into a contract with a qualified person, as determined by the executive commissioner, for the following services related to the program:

- (A) data collection;
- (B) data analysis; and
- (C) technical support.

(f) The commission may make incentive payments under the program only if money is specifically appropriated for that purpose.

Sec. 531.913. HOSPITAL HEALTH INFORMATION EXCHANGE. (a) In this section, "potentially preventable readmission" means a return hospitalization of a person within a period specified by the commission that results from deficiencies in the care or treatment provided to the person during a previous hospital stay or from deficiencies in post-hospital discharge follow-up. The term does not include a hospital readmission necessitated by the occurrence of unrelated events after the discharge. The term includes the readmission of a person to a hospital for:

(1) the same condition or procedure for which the person was previously admitted;

(2) an infection or other complication resulting from care previously provided;

(3) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome; or

(4) another condition or procedure of a similar nature, as determined by the executive commissioner.

(b) The executive commissioner shall adopt rules for identifying potentially preventable readmissions of Medicaid recipients and the commission shall exchange data with hospitals on present-on-admission indicators for purposes of this section.

(c) The commission shall establish a health information exchange program to exchange confidential information with each hospital in this state regarding the hospital's performance with respect to potentially preventable readmissions. A hospital shall distribute the information received from the commission to health care providers providing services at the hospital.

SECTION 2. Subchapter B, Chapter 62, Health and Safety Code, is amended by adding Section 62.060 to read as follows:

Sec. 62.060. HEALTH INFORMATION TECHNOLOGY STANDARDS. (a) In this section, "health information technology" means information technology used to improve the quality, safety, or efficiency of clinical practice, including the core functionalities of an electronic health record, an electronic medical record, a computerized health care provider order entry, electronic prescribing, and clinical decision support technology.

(b) The commission shall ensure that any health information technology used by the commission or any entity acting on behalf of the commission in the child health plan program conforms to standards required under federal law.

SECTION 3. Section 32.060(a), Human Resources Code, as added by Section 16.01, Chapter 204 (**HB 4**), Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) The following are not admissible as evidence in a civil action:

(1) any finding by the department that an institution licensed under Chapter 242, Health and Safety Code, has violated a standard for participation in the medical assistance program under this chapter; ~~or~~

(2) the fact of the assessment of a monetary penalty against an institution under Section 32.021 or the payment of the penalty by an institution;
or

(3) any information exchanged between the department and a nursing facility under Section 531.912, Government Code.

SECTION 4. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.073 to read as follows:

Sec. 32.073. HEALTH INFORMATION TECHNOLOGY STANDARDS.

(a) In this section, "health information technology" means information technology used to improve the quality, safety, or efficiency of clinical practice, including the core functionalities of an electronic health record, an electronic medical record, a computerized health care provider order entry, electronic prescribing, and clinical decision support technology.

(b) The Health and Human Services Commission shall ensure that any health information technology used by the commission or any entity acting on behalf of the commission in the medical assistance program conforms to standards required under federal law.

SECTION 5. The Health and Human Services Commission shall begin implementing the pilot project established under Section 531.902, Government Code, as added by this Act, as soon as feasible after September 1, 2009, but not later than the 60th day after the effective date of this Act.

SECTION 6. Not later than January 1, 2011, the Health and Human Services Commission shall:

(1) assess, in conjunction with the health information exchanges selected for participation in the pilot project established under Section 531.902, Government Code, as added by this Act, the benefits to the state, patients, and health care providers of exchanging secure health information with local or regional health information exchanges;

(2) include, as part of the assessment required by Subdivision (1) of this section, a return on investment analysis for the guidelines developed under Section 531.902(c)(1), Government Code, as added by this Act; and

(3) report the commission's findings to the standing committees of the senate and house of representatives having primary jurisdiction over health and human services issues.

SECTION 7. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall:

(1) adopt rules to implement the health information exchange systems required by Subchapter V, Chapter 531, Government Code, as added by this Act; and

(2) appoint the members of the Electronic Health Information Exchange System Advisory Committee established under Section 531.904, Government Code, as added by this Act.

SECTION 8. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 9. This Act takes effect September 1, 2009.

HB 1218 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PARKER: Thank you, Representative Howard, just a couple of brief questions pertaining to the intent of the legislation. I guess, first and foremost, what we're doing here is really trying to develop a statewide health network. Is that correct?

REPRESENTATIVE D. HOWARD: That's correct.

PARKER: Would you agree that the real priority here is to build the most efficient, most effective network possible? Is that correct?

D. HOWARD: Certainly.

PARKER: Okay, and I guess along those lines it's only appropriate that we look to build the most efficient, effective network possible, that we look at what best practices are, both within the State of Texas as well as in other states and other industries outside of government. Is that correct?

D. HOWARD: What the legislation requires is the appointment of an advisory committee that's going to have a lot of stakeholders involved that will be looking at making sure that we meet the federal and state requirements. So, absolutely, we'll be looking at what's going to work best.

REMARKS ORDERED PRINTED

Representative Parker moved to print remarks between Representative D. Howard and Representative Parker.

The motion prevailed.

Representative D. Howard moved to adopt the conference committee report on **HB 1218**.

The motion to adopt the conference committee report on **HB 1218** prevailed by (Record 1696): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran;

Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Cook; Corte; Edwards; Hughes; Isett; Paxton; Swinford.

HB 1322 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the following conference committee report on **HB 1322**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1322** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Watson	Hochberg
Davis	Allen
Ogden	Farias
Shapiro	Jackson
Van de Putte	Shelton
On the part of the senate	On the part of the house

HB 1322, A bill to be entitled An Act relating to the establishment of an online resource for teachers of students with special health needs.

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

SECTION 1. Subchapter J, Chapter 21, Education Code, is amended by adding Section 21.463 to read as follows:

Sec. 21.463. RESOURCES FOR TEACHERS OF STUDENTS WITH SPECIAL HEALTH NEEDS. The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for teachers who teach students with special health needs. The agency shall include on the website information about:

(1) the treatment and management of chronic illnesses and how such illnesses impact a student's well-being or ability to succeed in school; and

(2) food allergies that are common among students, including information about preventing exposure to a specific food when necessary to protect a student's health and information about treating a student suffering from an allergic reaction to a food.

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, 2009.

Representative Hochberg moved to adopt the conference committee report on **HB 1322**.

The motion to adopt the conference committee report on **HB 1322** prevailed by (Record 1697): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Burnam.

HB 1343 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Menendez submitted the following conference committee report on **HB 1343**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1343** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Van de Putte
 Hinojosa
 Shapiro
 Uresti

Menendez
 Naishtat
 Phillips
 Pickett
 McClendon

On the part of the senate

On the part of the house

HB 1343, A bill to be entitled An Act relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.

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

SECTION 1. Section 121.007, Human Resources Code, is transferred to Chapter 552, Transportation Code, renumbered as Section 552.010, and amended to read as follows:

Sec. 552.010 [~~121.007~~]. ~~BLIND [AND DISABLED] PEDESTRIANS.~~ (a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by an assistance animal or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) If it is shown on the trial of an offense under this section that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(c-1) A portion of the community service required under Subsection (c)(2) shall include sensitivity training. [The failure of a totally or partially blind or otherwise disabled person to carry a white cane or be guided or aided by an assistance animal does not deprive the person of the rights and privileges conferred by law on pedestrians crossing streets or highways and does not constitute evidence of contributory negligence.]

(d) For the purposes of this section:

(1) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

(2) "White cane" has the meaning assigned by Section 121.002, Human Resources Code [A person who violates this section commits a Class C misdemeanor].

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

SECTION 2. Section 552.003, Transportation Code, is amended by adding Subsections (d), (d-1), (e), and (f) to read as follows:

(d) If it is shown on the trial of an offense under Subsection (a) that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a visually impaired or disabled person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(d-1) A portion of the community service required under Subsection (d)(2) shall include sensitivity training.

(e) For the purposes of this section:

(1) "Visually impaired" has the meaning assigned by Section 91.002, Human Resources Code.

(2) "Disabled" means a person who cannot walk without the use or assistance of:

(A) a device, including a brace, cane, crutch, prosthesis, or wheelchair; or

(B) another person.

(f) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

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

SECTION 4. This Act takes effect September 1, 2009.

Representative Menendez moved to adopt the conference committee report on **HB 1343**.

The motion to adopt the conference committee report on **HB 1343** prevailed by (Record 1698): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle;

Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Burnam; Davis, Y.

HR 2975 - ADOPTED (by Chisum)

The following privileged resolution was laid before the house:

HR 2975

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1796** (the development of carbon dioxide capture and sequestration in this state) to consider and take action on the following matter:

House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text on a matter not in disagreement and not included in either the house or senate version of the bill by adding the following SECTION to the bill:

SECTION 30. The purpose of the changes in law made by this Act is to encourage the development of onshore and offshore geologic storage of carbon dioxide including by encouraging the development of advanced clean energy projects that capture carbon dioxide and sequester not less than 50 percent of the captured carbon dioxide in onshore or offshore geologic repositories. Securing the necessary capacity for geologic sequestration is essential to the success of carbon capture strategies, such as the advanced clean energy projects facilitated by the changes in law made by this Act. The success of the offshore repositories facilitated by this Act depends on an adequate supply of anthropogenic carbon dioxide, which is not currently being captured at industrial facilities in this state. The advanced clean energy grants established in this Act are intended to create the supply of anthropogenic carbon dioxide necessary to the success of the offshore repositories facilitated by this Act.

Explanation: The added language is necessary to clarify the purpose of the provisions of the bill.

HR 2975 was adopted by (Record 1699): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Geren.

HB 1796 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Chisum submitted the following conference committee report on **HB 1796**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1796** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Watson	Chisum
Averitt	Cook
Davis	Weber
On the part of the senate	On the part of the house

HB 1796, A bill to be entitled An Act relating to the development of carbon dioxide capture and sequestration in this state.

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

SECTION 1. Chapter 382, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. OFFSHORE GEOLOGIC STORAGE OF CARBON
DIOXIDE

Sec. 382.501. DEFINITIONS. In this subchapter:

(1) "Board" means the School Land Board.

(2) "Bureau" means the Bureau of Economic Geology at The University of Texas at Austin.

(3) "Carbon dioxide repository" means an offshore deep subsurface geologic repository for the storage of anthropogenic carbon dioxide.

(4) "Land commissioner" means the commissioner of the General Land Office.

Sec. 382.502. RULES. (a) The commission by rule may adopt standards for the location, construction, maintenance, monitoring, and operation of a carbon dioxide repository.

(b) If the United States Environmental Protection Agency issues requirements regarding carbon dioxide sequestration, the commission shall ensure that the construction, maintenance, monitoring, and operation of the carbon dioxide repository under this subchapter comply with those requirements.

Sec. 382.503. STUDY; SELECTION OF LOCATION. (a) The land commissioner shall contract with the bureau to conduct a study of state-owned offshore submerged land to identify potential locations for a carbon dioxide repository.

(b) The land commissioner shall recommend suitable sites for carbon dioxide storage to the board based on the findings of the study.

(c) The board shall make the final determination of suitable locations for carbon dioxide storage.

Sec. 382.504. CONTRACT FOR NECESSARY INFRASTRUCTURE AND OPERATION. (a) Once the location has been established for the carbon dioxide repository, the board may issue requests for proposals for the lease of permanent school fund land for the construction of any necessary infrastructure for the transportation and storage of carbon dioxide to be stored in the carbon dioxide repository.

(b) The board may contract for construction or operational services for the repository.

Sec. 382.505. ACCEPTANCE OF CARBON DIOXIDE FOR STORAGE; FEES AND CARBON CREDITS. (a) Once the carbon dioxide repository is established, the board may accept carbon dioxide for storage.

(b) The board by rule may establish a fee for the storage of carbon dioxide in the carbon dioxide repository. If this state participates in a program that facilitates the trading of carbon credits, a fee under this subsection may be established as a percentage of the carbon credits associated with the storage.

Sec. 382.506. MEASURING, MONITORING, AND VERIFICATION; ROLE OF BUREAU. (a) The commission by rule may establish standards for the measurement, monitoring, and verification of the permanent storage status of the carbon dioxide in the carbon dioxide repository.

(b) The bureau shall perform the measurement, monitoring, and verification of the permanent storage status of carbon dioxide in the carbon dioxide repository.

(c) The bureau shall serve as a scientific advisor for the measuring, monitoring, and permanent storage status verification of the carbon dioxide repository.

(d) The bureau shall provide to the board data relating to the measurement, monitoring, and verification of the permanent storage status of the carbon dioxide in the carbon dioxide repository, as determined by the board.

Sec. 382.507. OWNERSHIP OF CARBON DIOXIDE. (a) The board shall acquire title to carbon dioxide stored in the carbon dioxide repository on a determination by the board that permanent storage has been verified and that the storage location has met all applicable state and federal requirements for closure of carbon dioxide storage sites.

(b) The right, title, and interest in carbon dioxide acquired under this section are the property of the permanent school fund and shall be administered and controlled by the board.

Sec. 382.508. LIABILITY. (a) The transfer of title to the state under Section 382.507 does not relieve a producer of carbon dioxide of liability for any act or omission regarding the generation of stored carbon dioxide performed before the carbon dioxide was stored.

(b) On the date the permanent school fund, under Section 382.507, acquires the right, title, and interest in carbon dioxide, the producer of the carbon dioxide is relieved of liability for any act or omission regarding the carbon dioxide in the carbon dioxide repository.

(c) This section does not relieve a person who contracts with the board under Section 382.504(b) of liability for any act or omission regarding the construction or operation, as applicable, of the carbon dioxide repository.

Sec. 382.509. RATES FOR TRANSPORTATION. Neither the commission nor the board may establish or regulate the rates charged for the transportation of carbon dioxide to the carbon dioxide repository.

Sec. 382.510. ANNUAL REPORT. The land commissioner shall issue annually a report regarding the carbon dioxide repository. The report may be submitted electronically by posting on the General Land Office's Internet website. The report must include information regarding:

- (1) the total volume of carbon dioxide stored;
- (2) the total volume of carbon dioxide received for storage during the year; and
- (3) the volume of carbon dioxide received from each producer of carbon dioxide.

SECTION 2. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory unless a specific appropriation has been made to implement the provision or it is determined by the agency that the provisions imposed by this Act may be absorbed within agency resources during the fiscal period without additional state funding.

SECTION 3. Section 382.003(1-a), Health and Safety Code, is amended to read as follows:

(1-a) "Advanced clean energy project" means a project for which an application for a permit or for an authorization to use a standard permit under this chapter is received by the commission on or after January 1, 2008, and before January 1, 2020, and that:

(A) involves the use of coal, biomass, petroleum coke, solid waste, or fuel cells using hydrogen derived from such fuels, in the generation of electricity, or the creation of liquid fuels outside of the existing fuel production infrastructure while co-generating electricity, whether the project is implemented in connection with the construction of a new facility or in connection with the modification of an existing facility and whether the project involves the entire emissions stream from the facility or only a portion of the emissions stream from the facility;

(B) with regard to the portion of the emissions stream from the facility that is associated with the project, is capable of achieving:

(i) on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions or, if the project is designed for the use of feedstock substantially all of which is subbituminous coal, an emission rate of 0.04 pounds or less of sulfur dioxide per million British thermal units as determined by a 30-day average;

(ii) on an annual basis[;] a 95 percent or greater reduction of mercury emissions;

(iii) [~~and~~] an annual average emission rate for nitrogen oxides of:

(a) 0.05 pounds or less per million British thermal units; or

(b) if the project uses gasification technology, 0.034 pounds or less per million British thermal units; and

(iv) an annual average emission rate for filterable particulate matter of 0.015 pounds or less per million British thermal units; and

(C) captures not less than 50 percent of the [~~renders~~] carbon dioxide in the portion of the emissions stream from the facility that is associated with the project and sequesters that captured carbon dioxide by geologic storage or other means [~~capable of capture, sequestration, or abatement if any carbon dioxide is produced by the project~~].

SECTION 4. Section 382.0567(b), Health and Safety Code, is amended to read as follows:

(b) The commission may not consider any technology or level of emission reduction to be achievable for purposes of a best available control technology analysis or lowest achievable emission rate analysis conducted by the

commission under another provision of this chapter solely because the technology is used or the emission reduction is achieved by a facility receiving an incentive as an advanced clean energy project or new technology project, as described by Section 391.002.

SECTION 5. Section 386.051(b), Health and Safety Code, is amended to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1) the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

(3) the new technology research and development program established under Chapter 387; ~~and~~

(4) the clean school bus program established under Chapter 390; and

(5) the new technology implementation grant program established under Chapter 391.

SECTION 6. Section 386.052(b), Health and Safety Code, is amended to read as follows:

(b) Appropriate commission objectives include:

(1) achieving maximum reductions in oxides of nitrogen to demonstrate compliance with the state implementation plan;

(2) preventing areas of the state from being in violation of national ambient air quality standards;

(3) achieving cost-saving and multiple benefits by reducing emissions of other pollutants; ~~and~~

(4) achieving reductions of emissions of diesel exhaust from school buses; and

(5) advancing new technologies that reduce oxides of nitrogen and other emissions from facilities and other stationary sources.

SECTION 7. Section 386.057(b), Health and Safety Code, is amended to read as follows:

(b) Not later than December 1, 2002, and not later than December 1 of each subsequent second year, the commission, in consultation with the advisory board, shall publish and submit to the legislature a biennial plan report. The report must include:

(1) the information included in the annual reviews conducted under Subsection (a);

(2) specific information for individual projects as required by Subsection (c);

(3) information contained in reports received under Sections 386.205, 388.003(e), ~~and~~ 388.006, and 391.104; and

(4) a summary of the commission's activities under Section 386.052.

SECTION 8. Section 386.251(c), Health and Safety Code, is amended to read as follows:

(c) The fund consists of:

(1) the amount of money deposited to the credit of the fund under:

(A) Section 386.056;

(B) Sections 151.0515 and 152.0215, Tax Code; and

(C) Sections 501.138, 502.1675, and 548.5055, Transportation

Code; and

(2) grant money recaptured under Section 386.111(d) and Chapter 391.

SECTION 9. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. NEW TECHNOLOGY IMPLEMENTATION FOR

FACILITIES AND STATIONARY SOURCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Best available control technology" has the meaning assigned by Section 169 of the federal Clean Air Act (42 U.S.C. Section 7479(3)).

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Facility" has the meaning assigned by Section 382.003.

(4) "Incremental cost" has the meaning assigned by Section 386.001.

(5) "New technology" means emissions control technology that results in emissions reductions that exceed state or federal requirements in effect at the time of submission of a new technology implementation grant application.

(6) "Stationary source" has the meaning assigned by Section 302 of the federal Clean Air Act (42 U.S.C. Section 7602(z)).

Sec. 391.002. GRANT PROGRAM. (a) The commission shall establish and administer a new technology implementation grant program to assist the implementation of new technologies to reduce emissions from facilities and other stationary sources in this state. Under the program, the commission shall provide grants or other financial incentives for eligible projects to offset the incremental cost of emissions reductions.

(b) Projects that may be considered for a grant under the program include:

(1) advanced clean energy projects, as defined by Section 382.003;

(2) new technology projects that reduce emissions of regulated pollutants from point sources and involve capital expenditures that exceed \$500 million; and

(3) electricity storage projects related to renewable energy.

Sec. 391.003. GUIDELINES AND CRITERIA. (a) The commission shall adopt grant guidelines and criteria consistent with the requirements of this chapter.

(b) The guidelines must include:

(1) protocols to compute projected emissions reductions and project cost-effectiveness; and

(2) safeguards to ensure that the projects funded result in emissions reductions not otherwise required by state or federal law.

(c) The commission may propose revisions to the guidelines and criteria adopted under this section as necessary to improve the ability of the program to achieve the program goals.

(d) The commission may adopt emergency rules under Section 2001.034, Government Code, with abbreviated notice, to carry out any rulemaking necessary to implement this chapter.

(e) Except as provided by Subsection (d), the rulemaking requirements of Chapter 2001, Government Code, do not apply to the adoption or revision of guidelines and criteria under this section.

Sec. 391.004. AVAILABILITY OF EMISSIONS REDUCTION CREDITS IN CERTAIN NONATTAINMENT AREAS. A project funded under this chapter must comply with Sections 386.055 and 386.056, as applicable.

[Sections 391.005-391.100 reserved for expansion]

SUBCHAPTER B. GRANT APPLICATIONS AND REVIEW

Sec. 391.101. APPLICATION FOR GRANT. (a) The owner of a facility located in this state may apply for a grant under the program established under Section 391.002. To improve the ability of the program to achieve the program goals, the commission may adopt guidelines to allow a person other than the owner to apply for and receive a grant.

(b) An application for a grant under this chapter must be made on a form provided by the commission and must contain information required by the commission, including:

- (1) a detailed description of the proposed project;
- (2) information necessary for the commission to determine whether the project meets the commission's eligibility requirements, including a statement of the amounts of any other public financial assistance the project will receive; and
- (3) other information the commission may require.

(c) An application for a grant under this chapter must contain a plan for implementation of a program that will provide project information and education to the public in the areas subject to public notice under federal and state permitting requirements for the proposed project until completion of the permitting process. The plan must provide for a publicly accessible informational Internet website.

Sec. 391.102. GRANT APPLICATION REVIEW PROCEDURES. (a) The commission shall review an application for a grant for a project authorized under this chapter according to dates specified in a request for grant applications. If the commission determines that an application is incomplete, the commission shall notify the applicant and provide an explanation of the information missing from the application. The commission shall evaluate the completed application according to the guidelines and criteria adopted under Section 391.003.

(b) To the extent possible, the commission shall coordinate project review and approval with any timing constraints related to project purchases or installations to be made by an applicant.

(c) The commission may deny a grant application for a project that does not meet the applicable criteria or that the commission determines is not made in good faith, is not credible, or is not in compliance with this chapter or the goals of this chapter.

(d) Subject to the availability of funding, the commission shall award a grant under this chapter in conjunction with the execution of a contract that obligates the commission to make the grant and the recipient to perform the actions described by the recipient's grant application. Subject to Section 391.204, the contract must incorporate provisions for recapturing grant money for noncompliance with grant requirements. Grant money recaptured under the contract provisions shall be deposited in the Texas emissions reduction plan fund and reallocated for other projects under this subchapter.

(e) An applicant may seek reimbursement for qualifying equipment installed after the effective date of this program.

(f) In coordinating interagency application review procedures, the commission shall:

(1) solicit review and comments from:

(A) the comptroller to assess:

(i) the financial stability of the applicant;

(ii) the economic benefits and job creation potential associated with the project; and

(iii) any other information related to the duties of that office;

(B) the Public Utility Commission of Texas to assess:

(i) the reliability of the proposed technology;

(ii) the feasibility and cost-effectiveness of electric transmission associated with the project; and

(iii) any other information related to the duties of that agency;

and

(C) the Railroad Commission of Texas to assess:

(i) the availability and cost of the fuel involved with the project; and

(ii) any other information related to the duties of that agency;

(2) consider the comments received under Subdivision (1) in the commission's grant award decision process; and

(3) as part of the report required by Section 391.104, justify awards made to projects that have been negatively reviewed by agencies under Subdivision (1).

(g) The commission may solicit review and comments from other state agencies or other entities with subject matter expertise applicable to the review of a grant application.

Sec. 391.103. EVIDENCE OF EMISSIONS REDUCTION POTENTIAL REQUIRED. (a) An application for a new technology implementation grant under this chapter must show reasonable evidence that the proposed technology is capable of providing a significant reduction in emissions.

(b) The commission shall consider specifically, for each proposed new technology implementation grant application:

(1) the projected potential for reduced emissions and the cost-effectiveness of the new technology;

(2) the potential for the new technology to contribute significantly to air quality goals; and

(3) the strength of the implementation plan.

Sec. 391.104. REPORTING REQUIREMENTS. The commission annually shall prepare a report that summarizes the applications received and grants awarded in the preceding year. Preparation of the report must include the participation of the state agencies involved in the review of applications under Section 391.102.

[Sections 391.105-391.200 reserved for expansion]

SUBCHAPTER C. PROJECT REQUIREMENTS

Sec. 391.201. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission shall establish criteria for prioritizing projects eligible to receive grants under this chapter. The commission shall review and may modify the criteria and priorities as appropriate.

(b) A proposed project must meet the requirements of this section to be eligible for a grant under the program established under Section 391.002.

(c) Each proposed project must meet the cost-effectiveness requirements established by the commission.

(d) A new technology implementation project must document, in a manner acceptable to the commission, an achieved reduction from the baseline emissions adopted by the commission for the relevant facility or stationary source. After studying available emissions reduction technologies, the commission may impose a required minimum percentage reduction of emissions to improve the ability of the program to achieve the program goals.

(e) If a baseline emissions standard does not exist for a facility, the commission, for purposes of this subchapter, shall adopt an appropriate baseline emissions level for comparison purposes.

(f) Planned water usage for proposed projects must be consistent with the state water plan.

Sec. 391.202. EVALUATING COST-EFFECTIVENESS. The commission shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with accepted methods.

Sec. 391.203. DETERMINATION OF GRANT AMOUNT. (a) The commission may not award a grant that, net of taxes, provides an amount that exceeds the incremental cost of the proposed project.

(b) In determining the amount of a grant under this subchapter, the commission shall reduce the incremental cost of a proposed project by the value of any existing financial incentive that directly reduces the cost of the proposed project, including tax credits or deductions, other grants, or any other public financial assistance.

Sec. 391.204. COST SHARING; RECAPTURING GRANT. (a) The commission shall require an applicant to bear at least 50 percent of the costs of implementing a project funded under this chapter.

(b) The commission may not require repayment of grant money, except that the commission must require provisions for recapturing grant money for noncompliance with grant requirements.

Sec. 391.205. PREFERENCES. (a) Except as provided by Subsection (c), in awarding grants under this chapter the commission shall give preference to projects that:

- (1) use natural resources originating or produced in this state;
- (2) contain an energy efficiency component; or
- (3) include the use of solar, wind, or other renewable energy sources.

(b) Projects that include more than one of the criteria described by Subsection (a) shall be given a greater preference in the award of grants under this chapter.

(c) The commission may give preference under Subsection (a) only if the cost-effectiveness and emission performance of the project are comparable to those of a project not claiming a preference described by that subsection.

[Sections 391.206-391.300 reserved for expansion]

SUBCHAPTER D. FUNDING; EXPIRATION

Sec. 391.301. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter must use the grant to pay the incremental costs of the purchase and installation of the project for which the grant is made, which may include reasonable and necessary expenses for the labor needed to install emissions-reducing equipment. The recipient may not use the grant for the costs of operating and maintaining the emissions-reducing equipment.

Sec. 391.302. COMPTROLLER REVIEW OF USE OF GRANT FUNDS. (a) The comptroller annually shall conduct a review of each recipient of a new technology implementation grant under this chapter to ensure that the recipient's use of the grant complies with state law and the terms of the award.

(b) To assist with a review under this section, the commission shall provide the comptroller with all monitoring reports received from grant recipients and any other documentation requested by the comptroller.

(c) On a finding of any misuse of grant money or other noncompliance with grant requirements, the comptroller shall provide a report to the commission with recommendations for subsequent action, including the recapture of money misused.

(d) A finding of any misuse of grant money by a recipient of a grant under this chapter results in a debt owed to the state, and the comptroller may withhold warrants and electronic funds transfers to the recipient in accordance with Section 403.055, Government Code.

(e) The comptroller may contract with another state agency, an institution of higher education, or a private entity to conduct a review under this section or to assist the comptroller in conducting any part of the review.

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

Sec. 391.303. TIME OF USE OF GRANT FUNDING. Money appropriated for grants to be made by the commission under this chapter for a fiscal year may be distributed in subsequent fiscal years if the grant has been

awarded and treated as a binding encumbrance by the commission before the end of the appropriation year of the money appropriated for grant purposes. Distribution of the grant money is subject to Section 403.071, Government Code.

Sec. 391.304. EXPIRATION. This chapter expires August 31, 2019.

SECTION 10. Section 403.071(b), Government Code, is amended to read as follows:

(b) A claim may not be paid from an appropriation unless the claim is presented to the comptroller for payment not later than two years after the end of the fiscal year for which the appropriation was made. However, a claim may be presented not later than four years after the end of the fiscal year for which the appropriation from which the claim is to be paid was made if the appropriation relates to new construction contracts, to grants awarded under Chapter 391, Health and Safety Code, or to repair and remodeling projects that exceed the amount of \$20,000, including furniture and other equipment, architects' and engineering fees, and other costs related to the contracts or projects.

SECTION 11. Section 382.0622(a), Health and Safety Code, is amended to read as follows:

(a) Clean Air Act fees consist of:

(1) fees collected by the commission under Sections 382.062, 382.0621, 382.202, and 382.302 and as otherwise provided by law; ~~and~~

(2) \$2 of each advance payment collected by the Department of Public Safety for inspection certificates for vehicles other than mopeds under Section 548.501, Transportation Code; and

(3) fees collected that are required under Section 185 of the federal Clean Air Act (42 U.S.C. Section 7511d).

SECTION 12. Section 382.210(d), Health and Safety Code, is amended to read as follows:

(d) A participating county shall provide an electronic means for distributing vehicle repair or replacement funds once all program criteria have been met with regard to the repair or replacement. The county shall ensure that funds are transferred to a participating dealer under this section not later than the 10th ~~[five]~~ business day ~~[days]~~ after the date the county receives proof of the sale and any required administrative documents from the participating dealer.

SECTION 13. Sections 382.220(c) and (d), Health and Safety Code, are amended to read as follows:

(c) Money that is made available for the implementation of a program under Subsection (b) may not be expended for local government fleet or vehicle acquisition or replacement, call center management, application oversight, invoice analysis, education, outreach, or advertising purposes.

(d) Fees collected under Sections 382.202 and 382.302 may be used, in an amount not to exceed \$5 million per fiscal year, for projects described by Subsection (b). The fees shall be made available only to counties participating in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs created under Section 382.209 and only on a matching basis, whereby the commission provides money to a county in the same amount that the county dedicates to a project authorized by Subsection (b). The commission may

reduce the match requirement for a county that proposes to develop and implement independent test facility fraud detection programs, including the use of remote sensing technology for coordinating with law enforcement officials to detect, prevent, and prosecute the use of counterfeit state inspection stickers.

SECTION 14. Section 386.001, Health and Safety Code, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Stationary engine" means a machine used in a nonmobile application that converts fuel into mechanical motion, including turbines and other internal combustion devices.

SECTION 15. Section 386.002, Health and Safety Code, is amended to read as follows:

Sec. 386.002. EXPIRATION. This chapter expires August 31, 2019 [~~2013~~].

SECTION 16. Section 386.104(c), Health and Safety Code, is amended to read as follows:

(c) For a proposed project as described by Section 386.102(b), other than a project involving a marine vessel or engine, not less than 75 percent of vehicle miles traveled or hours of operation projected for the five years immediately following the award of a grant must be projected to take place in a nonattainment area or affected county of this state. The commission may also allow vehicle travel on highways and roadways, or portions of a highway or roadway, designated by the commission and located outside a nonattainment area or affected county to count towards the percentage of use requirement in this subsection. For a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county of this state for a sufficient amount of time over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section 386.105. For a proposed project involving non-road equipment used for natural gas recovery purposes, the equipment must be operated in a nonattainment area or affected county for a sufficient amount of use over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section 386.105.

SECTION 17. Section 390.006, Health and Safety Code, is amended to read as follows:

Sec. 390.006. EXPIRATION. This chapter expires August 31, 2019 [~~2013~~].

SECTION 18. Section 151.0515(d), Tax Code, is amended to read as follows:

(d) This section expires August 31, 2019 [~~2013~~].

SECTION 19. Section 152.0215(c), Tax Code, is amended to read as follows:

(c) This section expires August 31, 2019 [~~2013~~].

SECTION 20. Section 501.138(b-3), Transportation Code, is amended to read as follows:

(b-3) This subsection and Subsection (b-2) expire August 31, 2019 [~~September 1, 2015~~].

SECTION 21. Section 502.1675(c), Transportation Code, is amended to read as follows:

(c) This section expires August 31, 2019 ~~[2013]~~.

SECTION 22. Section 548.5055(c), Transportation Code, is amended to read as follows:

(c) This section expires August 31, 2019 ~~[2013]~~.

SECTION 23. Sections 386.252(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which:

(A) not more than four percent may be used for the clean school bus program;

(B) ~~and~~ not more than 10 percent may be used for on-road diesel purchase or lease incentives; and

(C) a specified amount may be used for the new technology implementation grant program, from which a defined amount may be set aside for electricity storage projects related to renewable energy;

(2) for the new technology research and development program, nine ~~[9.5]~~ percent of the money in the fund, of which:

(A) up to ~~[\$250,000 is allocated for administration, up to]~~ \$200,000 is allocated for a health effects study;

(B) ~~[5]~~ \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties;

(C) ~~[5]~~ not less than 20 percent is to be allocated each year to support research related to air quality as provided by Section 387.010; ~~[for the Houston Galveston Brazoria and Dallas Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan;]~~ and

(D) the balance is ~~[to be]~~ allocated each year to the commission ~~[a nonprofit organization or an institution of higher education based in Houston]~~ to be used to:

(i) implement and administer the new technology research and development program ~~[under a contract with the commission]~~ for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; and

(ii) contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station for \$216,000 annually for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan; and

(3) two percent is allocated to the commission and 1.5 percent is allocated to the laboratory for administrative costs incurred by the commission and the laboratory~~[, three percent of the money in the fund].~~

(b) The ~~[Up to 25 percent of the]~~ money allocated under Subsection (a) to a particular program ~~[and not expended under that program by January 1 of the second fiscal year of a fiscal biennium]~~ may be used for another program under the plan as determined by the commission ~~[in consultation with the advisory board].~~

SECTION 24. Section 387.003, Health and Safety Code, is amended to read as follows:

Sec. 387.003. NEW TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM. (a) The commission ~~[A nonprofit organization or institution of higher education described by Section 386.252(a)(2), under a contract with the commission as described by that section,]~~ shall establish and administer a new technology research and development program as provided by this chapter. The commission may contract with one or more well-qualified nonprofit organizations or institutions of higher education for administration of this program ~~[than one entity and may limit the amount of each grant contract accordingly].~~

(b) Under the program, the commission shall provide grants ~~[to be used]~~ to support development of emissions-reducing technologies that may be used for projects eligible for awards under Chapters ~~[Chapter]~~ 386 and 391 and other new technologies that show promise for commercialization. The primary objective of this chapter is to promote the development of commercialization technologies to reduce emissions of oxides of nitrogen in nonattainment areas designated in this state ~~[that will support projects that may be funded under Chapter 386 and this chapter, including advanced technologies such as fuel cells, catalysts, and fuel additives].~~

(c) If the commission contracts with one or more ~~[The board of directors of a]~~ nonprofit organizations to ~~[organization under contract with the commission to establish and]~~ administer a new technology research and development program under ~~[as provided by]~~ this chapter, the board of directors of each organization may not have more than 11 members, must include two persons of relevant scientific expertise to be nominated by the commission, and may not include more than four county judges ~~[selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas]~~. The two persons of relevant scientific expertise to be nominated by the commission may be employees or officers of the commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

~~(d) [The commission may enter into a grant contract with an institution of higher education described by Section 386.252(a)(2) for the institution to operate a testing facility which would be available for demonstration of eligible projects receiving grants under this chapter.~~

~~(e)~~ The commission shall provide oversight as appropriate for grants provided to a nonprofit organization or an institution of higher education under this program.

~~(f)~~ A nonprofit organization or an institution of higher education shall submit to the commission for approval a budget for the disposition of funds granted under this program.

~~(g)~~ The commission shall limit the use of grants for administrative costs incurred by a nonprofit organization or an institution of higher education to an amount not to exceed 10 percent of the total program funding ~~[provided to the nonprofit organization under this program].~~

~~(h)~~ A nonprofit organization that receives grants from the commission under this program is subject to Chapters 551 and 552, Government Code.

SECTION 25. Section 387.004, Health and Safety Code, is amended to read as follows:

Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS. The commission from time to time shall issue or contract with a nonprofit organization or an institution of higher education described by Section 387.003(a) ~~[386.252(a)(2)]~~ to issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology projects to be funded under the program.

SECTION 26. Sections 387.005(a), (b), and (f), Health and Safety Code, are amended to read as follows:

(a) Grants awarded under this chapter shall be directed toward a balanced mix of:

(1) retrofit and add-on technologies and other advanced technologies that reduce emissions from the existing stock of engines and vehicles targeted by the Texas emissions reduction plan, provided that the technologies do not significantly reduce the fuel economy of those engines and vehicles;

~~(2) [the establishment of a testing facility to evaluate retrofits, add-ons, advanced technologies, and fuels, or combinations of retrofits, add-ons, advanced technologies, and fuels, to determine their effectiveness in producing emissions reductions, with emphasis on the reduction of oxides of nitrogen; and~~

~~(3)~~ advanced technologies for new engines and vehicles that produce very-low or zero emissions of oxides of nitrogen, including stationary and mobile fuel cells;

(3) advanced technologies for reducing oxides of nitrogen and other emissions from stationary sources; and

(4) field validation of innovative technologies that:

(A) reduce emissions of oxides of nitrogen and other emissions;

and

(B) require demonstration of viability for full commercial

acceptance.

(b) The commission, directly or through a nonprofit organization or an institution of higher education described by Section 387.003(a) [~~386.252(a)(2)~~], shall identify and evaluate and may consider making grants for technology projects that would allow qualifying fuels to be produced from energy resources in this state. In considering projects under this subsection, the commission shall give preference to projects involving otherwise unusable energy resources in this state and producing qualifying fuels at prices lower than otherwise available and low enough to make the projects to be funded under the program economically attractive to local businesses in the area for which the project is proposed.

(f) Selection of grant recipients by a nonprofit organization or an institution of higher education described by Section 387.003(a) [~~386.252(a)(2)~~] under contract with the commission for the purpose of establishing and administering a new technology research and development program as provided by this chapter is subject to the commission's review and to the other requirements of this chapter. A grant contract under this chapter using funds described by Section 386.252 may not be made by a nonprofit organization or an institution of higher education if the commission or executive director of the commission does not consent to the grant or contract.

SECTION 27. Section 387.006, Health and Safety Code, is amended to read as follows:

Sec. 387.006. EVIDENCE OF COMMERCIALIZATION POTENTIAL REQUIRED. (a) An application for a technology grant under this chapter must show reasonable [~~clear and compelling~~] evidence that:

(1) the proposed technology project has a substantial [~~strong~~] commercialization plan and organization; and

(2) the technology proposed for funding[+] [~~(A)~~] is likely to be offered for commercial sale in this state as soon as practicable [~~but no later than five years~~] after the date of the application for funding[+] ~~and~~

[~~(B) once commercialized, will offer opportunities for projects eligible for funding under Chapter 386~~].

(b) The commission shall consider specifically, for each proposed technology project application:

(1) the projected potential for reduced emissions of oxides of nitrogen and the cost-effectiveness of the technology once it has been commercialized, including the impact on fuel consumption and maintenance costs for retrofits and rebuilds;

(2) the potential for the technology to contribute significantly to air quality goals; and

(3) the strength of the commercialization plan.

SECTION 28. Chapter 387, Health and Safety Code, is amended by adding Section 387.010 to read as follows:

Sec. 387.010. AIR QUALITY RESEARCH. (a) The commission shall contract with a nonprofit organization or institution of higher education to establish and administer a program to support research related to air quality.

(b) The board of directors of a nonprofit organization establishing and administering the research program related to air quality under this section may not have more than 11 members, must include two persons with relevant scientific expertise to be nominated by the commission, and may not include more than four county judges selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas. The two persons with relevant scientific expertise to be nominated by the commission may be employees or officers of the commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

(c) The commission shall provide oversight as appropriate for grants provided under the program established under this section.

(d) A nonprofit organization or institution of higher education shall submit to the commission for approval a budget for the disposition of funds granted under the program established under this section.

(e) A nonprofit organization or institution of higher education shall be reimbursed for costs incurred in establishing and administering the research program related to air quality under this section. Reimbursable administrative costs of a nonprofit organization or institution of higher education may not exceed 10 percent of the program budget.

(f) A nonprofit organization that receives grants from the commission under this section is subject to Chapters 551 and 552, Government Code.

SECTION 29. Chapter 382, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. FEDERAL GREENHOUSE GAS REPORTING RULE

Sec. 382.501. DEVELOPMENT OF FEDERAL GREENHOUSE GAS REPORTING RULE. (a) The commission and the Railroad Commission of Texas, the Department of Agriculture, and the Public Utility Commission of Texas shall jointly participate in the federal government process for developing federal greenhouse gas reporting requirements and the federal greenhouse gas registry requirements.

(b) The commission shall adopt rules as necessary to comply with any federal greenhouse gas reporting requirements adopted by the federal government for private and public facilities eligible to participate in the federal greenhouse gas registry. In adopting the rules, the commission shall adopt and incorporate by reference rules implementing the federal reporting requirements and the federal registry.

Sec. 382.502. VOLUNTARY ACTIONS INVENTORY. The commission shall:

(1) establish an inventory of voluntary actions taken by businesses in this state or by state agencies since September 1, 2001, to reduce carbon dioxide emissions; and

(2) work with the United States Environmental Protection Agency to give credit for early action under any federal rules that may be adopted for federal greenhouse gas regulation.

SECTION 30. The purpose of the changes in law made by this Act is to encourage the development of onshore and offshore geologic storage of carbon dioxide including by encouraging the development of advanced clean energy projects that capture carbon dioxide and sequester not less than 50 percent of the captured carbon dioxide in onshore or offshore geologic repositories. Securing the necessary capacity for geologic sequestration is essential to the success of carbon capture strategies, such as the advanced clean energy projects facilitated by the changes in law made by this Act. The success of the offshore repositories facilitated by this Act depends on an adequate supply of anthropogenic carbon dioxide, which is not currently being captured at industrial facilities in this state. The advanced clean energy grants established in this Act are intended to create the supply of anthropogenic carbon dioxide necessary to the success of the offshore repositories facilitated by this Act.

SECTION 31. This Act takes effect September 1, 2009.

Representative Chisum moved to adopt the conference committee report on **HB 1796**.

The motion to adopt the conference committee report on **HB 1796** prevailed by (Record 1700): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Geren; Isett; Madden; Veasey.

HR 3060 - ADOPTED
(by Corte)

The following privileged resolution was laid before the house:

HR 3060

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1831**, relating to disaster preparedness and emergency management and to certain vehicles used in emergencies, to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following text to SECTION 1.20 of the bill:

(13-a) "Police vehicle" means a vehicle ~~[of a governmental entity primarily]~~ used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, for law enforcement purposes that:

(A) is owned or leased by a governmental entity;

(B) is owned or leased by the police department of a private institution of higher education that commissions peace officers under Section 51.212, Education Code; or

(C) is:

(i) a private vehicle owned or leased by the peace officer; and

(ii) approved for use for law enforcement purposes by the head of the law enforcement agency that employs the peace officer, or by that person's designee, provided that use of the private vehicle must, if applicable, comply with any rule adopted by the commissioners court of a county under Section 170.001, Local Government Code, and that the private vehicle may not be considered an authorized emergency vehicle for exemption purposes under Section 228.054, 284.070, 366.178, or 370.177, Transportation Code, unless the vehicle is marked.

Explanation: This change is necessary to ensure that a private vehicle is marked in order to qualify for an exemption as an authorized emergency vehicle.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following text to ARTICLE 6 of the bill:

SECTION 6.01. The heading to Section 37.108, Education Code, is amended to read as follows:

Sec. 37.108. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY AND SECURITY AUDIT.

SECTION 6.02. Section 37.108, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (c-1) and (c-2) to read as follows:

(a) Each school district or public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities ~~[district schools]~~. The plan must address mitigation, preparedness, response, and recovery as defined by the commissioner of education or commissioner of higher education in conjunction with the governor's office of homeland security. The plan must provide for:

(1) district employee training in responding to an emergency;

(2) if the plan applies to a school district, mandatory school drills and exercises to prepare district students and employees for responding to an emergency;

(3) measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and

(4) the implementation of a safety and security audit as required by Subsection (b).

(b) At least once every three years, each [a] school district or public junior college district shall conduct a safety and security audit of the district's facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the Texas School Safety Center or a comparable public or private entity.

(c) A school district or public junior college district shall report the results of the safety and security audit conducted under Subsection (b) to the district's board of trustees and, in the manner required by the Texas School Safety Center, to the Texas School Safety Center.

SECTION 6.03. Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.109 to read as follows:

Sec. 37.109. SCHOOL SAFETY AND SECURITY COMMITTEE. (a) In accordance with guidelines established by the Texas School Safety Center, each school district shall establish a school safety and security committee.

(b) The committee shall:

(1) participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan required by Section 37.108(a) to ensure that the plans reflect specific campus, facility, or support services needs;

(2) provide the district with any campus, facility, or support services information required in connection with a safety and security audit required by Section 37.108(b), a safety and security audit report required by Section 37.108(c), or another report required to be submitted by the district to the Texas School Safety Center; and

(3) review each report required to be submitted by the district to the Texas School Safety Center to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center.

SECTION 6.04. Section 37.202, Education Code, is amended to read as follows:

Sec. 37.202. PURPOSE. The purpose of the center is to serve as:

(1) a central location for school safety and security information, including research, training, and technical assistance related to successful school safety and security programs; [and]

(2) a central registry of persons providing school safety and security consulting services in the state; and

(3) a resource for the prevention of youth violence and the promotion of safety in the state.

SECTION 6.05. Section 37.203(a), Education Code, as amended by Chapters 258 (SB 11) and 263 (SB 103), Acts of the 80th Legislature, Regular Session, 2007, is reenacted to read as follows:

- (a) The center is advised by a board of directors composed of:
- (1) the attorney general, or the attorney general's designee;
 - (2) the commissioner, or the commissioner's designee;
 - (3) the executive director of the Texas Juvenile Probation Commission, or the executive director's designee;
 - (4) the executive commissioner of the Texas Youth Commission, or the executive commissioner's designee;
 - (5) the commissioner of the Department of State Health Services, or the commissioner's designee;
 - (6) the commissioner of higher education, or the commissioner's designee; and
 - (7) the following members appointed by the governor with the advice and consent of the senate:
 - (A) a juvenile court judge;
 - (B) a member of a school district's board of trustees;
 - (C) an administrator of a public primary school;
 - (D) an administrator of a public secondary school;
 - (E) a member of the state parent-teacher association;
 - (F) a teacher from a public primary or secondary school;
 - (G) a public school superintendent who is a member of the Texas Association of School Administrators;
 - (H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and
 - (I) two members of the public.

SECTION 6.06. Section 37.203(b), Education Code, is amended to read as follows:

(b) Members of the board appointed under Subsection (a)(7) ~~[(a)(6)]~~ serve staggered two-year terms, with the terms of the members described by Subsections (a)(7)(A)-(E) ~~[(a)(6)(A)-(E)]~~ expiring on February 1 of each odd-numbered year and the terms of the members described by Subsections (a)(7)(F)-(I) ~~[(a)(6)(F)-(I)]~~ expiring on February 1 of each even-numbered year. A member may serve more than one term.

SECTION 6.07. Section 37.207(a), Education Code, is amended to read as follows:

(a) The center shall develop a model safety and security audit procedure for use by school districts and public junior college districts that includes:

- (1) providing each district with guidelines ~~[and a training video]~~ showing proper audit procedures;
- (2) reviewing elements of each district audit ~~[, providing the results of the review to the district,]~~ and making recommendations for improvements in the state based on that review ~~[the audit]~~; and
- (3) incorporating the findings of district audits in a statewide report on school safety and security made available by the center to the public.

SECTION 6.08. Section 37.209, Education Code, is amended to read as follows:

Sec. 37.209. CENTER WEBSITE. The center shall develop and maintain an interactive Internet website that includes:

(1) quarterly news updates related to school safety and security and violence prevention;

(2) school crime data;

(3) a schedule of training and special events; and

(4) a list of persons who [approved by the board to] provide school safety or security consulting services in this state and are registered in accordance with Section 37.2091 [presentations].

SECTION 6.09. Subchapter G, Chapter 37, Education Code, is amended by adding Sections 37.2091 and 37.2121 to read as follows:

Sec. 37.2091. REGISTRY OF PERSONS PROVIDING SCHOOL SAFETY OR SECURITY CONSULTING SERVICES. (a) In this section, "school safety or security consulting services" includes any service provided to a school district, institution of higher education, district facility, or campus by a person consisting of advice, information, recommendations, data collection, or safety and security audit services relevant to school safety and security, regardless of whether the person is paid for those services.

(b) The center shall establish a registry of persons providing school safety or security consulting services in this state.

(c) Each person providing school safety or security consulting services in this state shall register with the center in accordance with requirements established by the center. The requirements must include provisions requiring a person registering with the center to provide information regarding:

(1) the person's background, education, and experience that are relevant to the person's ability to provide knowledgeable and effective school safety or security consulting services; and

(2) any complaints or pending litigation relating to the person's provision of school safety or security consulting services.

(d) The registry is intended to serve only as an informational resource for school districts and institutions of higher education. The inclusion of a person in the registry is not an indication of the person's qualifications or ability to provide school safety or security consulting services or that the center endorses the person's school safety or security consulting services.

(e) The center shall include information regarding the registry, including the number of persons registered and the general degree of school safety or security experience possessed by those persons, in the biennial report required by Section 37.216.

Sec. 37.2121. MEMORANDA OF UNDERSTANDING AND MUTUAL AID AGREEMENTS. (a) The center shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.

(b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:

(1) must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;

(2) may include sample language for those provisions; and

(3) must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.

(c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).

(d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide the following information to the center:

(1) the name of each entity with which the school district has entered into a memorandum of understanding or mutual aid agreement;

(2) the effective date of each memorandum or agreement; and

(3) a summary of each memorandum or agreement.

(e) The center shall include information regarding the center's efforts under this section in the report required by Section 37.216.

SECTION 6.10. Section 37.213, Education Code, is amended to read as follows:

Sec. 37.213. PUBLIC JUNIOR COLLEGES [~~INSTITUTIONS OF HIGHER EDUCATION~~]. (a) In this section, "public junior college" [~~"institution of higher education"~~] has the meaning assigned by Section 61.003.

(b) The center shall research best practices regarding emergency preparedness of public junior colleges and serve as a clearinghouse for that information.

(c) The center shall provide public junior colleges with training, technical assistance, and published guidelines or templates, as appropriate, in the following areas:

(1) multihazard emergency operations plan development;

(2) drill and exercise development and implementation;

(3) mutual aid agreements;

(4) identification of equipment and funds that may be used by public junior colleges in an emergency; and

(5) reporting in accordance with 20 U.S.C. Section 1092(f) [An institution of higher education may use any appropriate model plan developed by the center under Section 37.205(4)].

~~[(e) The center may provide an institution of higher education with on-site technical assistance and safety training.~~

~~[(d) The center may charge a fee to an institution of higher education for assistance and training provided under Subsection (e)].~~

SECTION 6.11. Section 37.216, Education Code, is amended to read as follows:

Sec. 37.216. BIENNIAL [~~ANNUAL~~] REPORT. (a) Not later than January [~~September~~] 1 of each odd-numbered year, the board shall provide a report to the governor, the legislature, the State Board of Education, and the agency.

(b) The biennial [~~annual~~] report must include any findings made by the center regarding school safety and security and the center's functions, budget information, and strategic planning initiatives of the center.

SECTION 6.12. Subchapter G, Chapter 37, Education Code, is amended by adding Section 37.2161 to read as follows:

Sec. 37.2161. SCHOOL SAFETY AND SECURITY PROGRESS REPORT. (a) The center shall periodically provide a school safety and security progress report to the governor, the legislature, the State Board of Education, and the agency that contains current information regarding school safety and security in the school districts and public junior college districts of this state based on:

(1) elements of each district's multihazard emergency operations plan required by Section 37.108(a);

(2) elements of each district's safety and security audit required by Section 37.108(b); and

(3) any other report required to be submitted to the center.

(b) The center shall establish guidelines regarding the specific information to be included in the report required by this section.

(c) The center may provide the report required by this section in conjunction with the report required by Section 37.216.

SECTION 6.13. Subchapter E, Chapter 51, Education Code, is amended by adding Section 51.217 to read as follows:

Sec. 51.217. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY AND SECURITY AUDIT. (a) In this section, "institution" means a general academic teaching institution, a medical and dental unit, or other agency of higher education, as those terms are defined by Section 61.003.

(b) An institution shall adopt and implement a multihazard emergency operations plan for use at the institution. The plan must address mitigation, preparedness, response, and recovery. The plan must provide for:

(1) employee training in responding to an emergency;

(2) mandatory drills to prepare students, faculty, and employees for responding to an emergency;

(3) measures to ensure coordination with the Department of State Health Services, local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and

(4) the implementation of a safety and security audit as required by Subsection (c).

(c) At least once every three years, an institution shall conduct a safety and security audit of the institution's facilities. To the extent possible, an institution shall follow safety and security audit procedures developed in consultation with the division of emergency management of the office of the governor.

(d) An institution shall report the results of the safety and security audit conducted under Subsection (c) to the institution's board of regents and the division of emergency management of the office of the governor.

(e) Except as provided by Subsection (f), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (c) is not subject to disclosure under Chapter 552, Government Code.

(f) A document relating to an institution's multihazard emergency operations plan is subject to disclosure if the document enables a person to:

(1) verify that the institution has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the institution to respond to an emergency, including the Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;

(2) verify that the institution's plan was reviewed within the last 12 months and determine the specific review dates;

(3) verify that the plan addresses the four phases of emergency management under Subsection (b);

(4) verify that institution employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;

(5) verify that each campus has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;

(6) verify that the institution has completed a safety and security audit under Subsection (c) and determine the date the audit was conducted, the person conducting the audit, and the date the institution presented the results of the audit to the board of regents; and

(7) verify that the institution has addressed any recommendations by the board of regents for improvement of the plan and determine the institution's progress within the last 12 months.

SECTION 6.13a. Chapter 111, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. UNIVERSITY OF HOUSTON HURRICANE CENTER FOR INNOVATIVE TECHNOLOGY

Sec. 111.121. DEFINITIONS. In this subchapter:

(1) "Board" means the board of regents of the University of Houston System.

(2) "Center" means the University of Houston Hurricane Center for Innovative Technology (UHC-IT) established under this subchapter.

Sec. 111.122. ESTABLISHMENT. (a) The University of Houston Hurricane Center for Innovative Technology is established at the University of Houston.

(b) The organization, control, and management of the center are vested in the board.

(c) The center shall be hosted by the university's College of Engineering. Participation in the center's activities shall be open to any faculty member of the university who is an active researcher in the field of materials, nanotechnology, structural engineering, designing of structures, or sensor technology, or in another relevant field as determined by the university.

Sec. 111.123. PURPOSE. The center is created to:

(1) promote interdisciplinary research, education, and training for the development of state-of-the-art products, materials, systems, and technologies designed to mitigate the wind, and asserted structural damages in the built environment and offshore structures caused by hurricanes in the Gulf Coast region; and

(2) develop protocols for the fast and efficient recovery of the public and private sectors, including utilities, hospitals, petrochemical industries, offshore platforms, and municipalities and other local communities following a hurricane.

Sec. 111.124. POWERS AND DUTIES. The center shall:

(1) collaborate with appropriate federal, state, and local agencies and private business or nonprofit entities as necessary to coordinate efforts after a hurricane in the Gulf Coast region;

(2) develop smart materials and devices for use in hurricane protection and mitigation systems for structural monitoring;

(3) develop anchor systems for window and door screens, dwellings and other buildings, pipelines, and other onshore and offshore structures to withstand hurricane wind damage;

(4) develop test facilities for evaluating the performance of new products, materials, or techniques designed to protect against hurricane wind damage;

(5) develop specifications and standards for products used for protecting against hurricane wind damage;

(6) design buildings, houses, and other structures to withstand hurricane wind damage; and

(7) provide hurricane-related educational programs, seminars, conferences, and workshops to the community designed to ensure safety, minimize loss of life, and mitigate the destruction of property associated with hurricane wind damage.

Sec. 111.125. COLLABORATION WITH OTHER ENTITIES. The University of Houston shall encourage public and private entities to participate in or support the operation of the center and may enter into an agreement with any public or private entity for that purpose. An agreement may allow the center to provide information, services, or other assistance to an entity in exchange for the entity's participation or support.

Sec. 111.126. GIFTS AND GRANTS. The board may solicit, accept, and administer gifts and grants from any public or private source and use existing resources for the purposes of the center. State funding is not available unless the legislature makes specific appropriation for this purpose.

Sec. 111.127. PERSONNEL. The board may employ personnel for the center as necessary.

SECTION 6.14. Section 418.004(10), Government Code, is amended to read as follows:

(10) "Local government entity" means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

SECTION 6.15. Section 37.210, Education Code, is repealed.

SECTION 6.17. A person providing school safety or security consulting services in this state shall comply with Section 37.2091, Education Code, as added by this article, not later than January 1, 2010.

SECTION 6.18. This article does not make an appropriation. A provision in this article that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 6.19. This article takes effect September 1, 2009.

Explanation: This change is necessary to require public junior college districts to adopt and implement a multihazard emergency operation plan, to establish school safety and security committees, and to establish the University of Houston Hurricane Center for Innovative Technology.

(3) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text that is not in disagreement in SECTION 6.16 of the bill so that section reads as follows:

SECTION 6.16. Sections 37.108(c-1) and (c-2), and Sections 51.217(d) and (e), Education Code, as added by this article, apply only to a request for documents or information that is received on or after the effective date of this article. A request for documents or information that was received before the effective date of this article is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

Explanation: This change is necessary to add a cross-reference to Sections 51.217(d) and (e), Education Code, to the transition provisions of the bill.

HR 3060 was adopted by (Record 1701): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt;

Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Aycock; Bonnen; Driver; Ritter.

HB 1831 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Corte submitted the following conference committee report on **HB 1831**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1831** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona

Ellis

Whitmire

Williams

Corte

Edwards

McClendon

Oliveira

Taylor

On the part of the senate

On the part of the house

HB 1831, A bill to be entitled An Act relating to disaster preparedness and emergency management and to certain vehicles used in emergencies; providing a penalty.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. Section 418.004(1), Government Code, is amended to read as follows:

(1) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency.

SECTION 1.02. Sections 418.005(a) and (b), Government Code, are amended to read as follows:

(a) This section applies only to an elected law enforcement officer or county judge, or an appointed public officer of the state or of a political subdivision, who has management or supervisory responsibilities and:

(1) whose position description, job duties, or assignment includes emergency management responsibilities; or

(2) who plays a role in emergency preparedness, response, or recovery.

(b) Each person described by Subsection (a) shall complete a course of training provided or approved by the division of not less than three hours regarding the responsibilities of state and local governments under this chapter not later than the 180th day after the date the person:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a ~~[an appointed]~~ public officer; or

(2) otherwise assumes responsibilities as a ~~[an appointed]~~ public officer, if the person is not required to take an oath of office to assume the person's duties.

SECTION 1.03. Section 418.013, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The emergency management council is composed of representatives ~~[the heads]~~ of state agencies, boards, ~~[and]~~ commissions, and ~~[representatives of]~~ organized volunteer groups designated by the head of each entity.

(d) The emergency management council shall assist the division in identifying, mobilizing, and deploying state resources to respond to major emergencies and disasters throughout the state.

SECTION 1.03a. Section 418.016, Government Code, is amended to read as follows:

Sec. 418.016. SUSPENSION OF PROCEDURAL LAWS AND RULES. (a) The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

(b) Upon declaration of a state of disaster, enforcement of the regulation of on-premise outdoor signs under Subchapter A, Chapter 216, Local Government Code, by a municipality that is located in a county within, or that is located in a county adjacent to a county within, the disaster area specified by the declaration is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage for not more than 60 days or until the end of the declaration of disaster, whichever is earlier.

(c) A temporary claims service sign shall not:

(1) be larger than forty square feet in size; and

(2) be more than five feet in height; and

(3) be placed in the right of way.

(4) At the end of the 30 days or the end of the declaration of disaster, whichever is earlier, the insurance carrier or its licensed agents must remove the temporary claims service signage that was erected.

SECTION 1.04. Section 418.042(a), Government Code, is amended to read as follows:

(a) The division shall prepare and keep current a comprehensive state emergency management plan. The plan may include:

(1) provisions for prevention and minimization of injury and damage caused by disaster;

- (2) provisions for prompt and effective response to disaster;
- (3) provisions for emergency relief;
- (4) provisions for energy emergencies;
- (5) identification of areas particularly vulnerable to disasters;
- (6) recommendations for zoning, building restrictions, and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
- (7) provisions for assistance to local officials in designing local emergency management plans;
- (8) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, fire, or other disaster;
- (9) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;
- (10) organization of manpower and channels of assistance;
- (11) coordination of federal, state, and local emergency management activities;
- (12) coordination of the state emergency management plan with the emergency management plans of the federal government;
- (13) coordination of federal and state energy emergency plans;
- (14) provisions for providing information to ~~education and training of~~ local officials on activation of the Emergency Alert System established under 47 C.F.R. Part 11; ~~and~~
- (15) a database of public facilities that may be used under Section 418.017 to shelter individuals during a disaster, including air-conditioned facilities for shelter during an extreme heat disaster and fortified structures for shelter during a wind disaster; and
- (16) other necessary matters relating to disasters.

SECTION 1.05. Subchapter C, Chapter 418, Government Code, is amended by adding Section 418.0425 to read as follows:

Sec. 418.0425. STATE EMERGENCY MANAGEMENT PLAN ANNEX.

- (a) In this section, "critical water or wastewater facility" means a facility with:
 - (1) water supply, treatment, or distribution equipment that is essential to maintain the minimum water pressure requirements established by the governing body of a municipality or the Texas Commission on Environmental Quality; or
 - (2) wastewater collection or treatment equipment that is essential to prevent the discharge of untreated wastewater to water in the state.
- (b) The division, in cooperation with the emergency management council, local governments, regional entities, health and medical facilities, volunteer groups, private sector partners, the Federal Emergency Management Agency, and other federal agencies, shall develop an annex to the state emergency management plan that addresses initial response planning for providing essential population support supplies, equipment, and services during the first five days immediately following a disaster. The annex must include:

(1) plans to make fuel available to, maintain continuing operations of, and assess the backup power available for, all:

(A) hospitals;

(B) prisons;

(C) assisted living facilities licensed under Chapter 247, Health and Safety Code;

- Code; and
- (D) institutions licensed under Chapter 242, Health and Safety
 - (E) other critical facilities determined by the division;
 - (2) provisions for interagency coordination of disaster response efforts;
 - (3) provisions for the rapid gross assessment of population support needs;
 - (4) plans for the clearance of debris from major roadways to facilitate emergency response operations and delivery of essential population support supplies and equipment;
 - (5) methods to obtain food, water, and ice for disaster victims through prearranged contracts or suppliers, stockpiled supplies, or plans to request assistance from federal agencies, as appropriate;
 - (6) guidelines for arranging temporary points of distribution for disaster relief supplies and standardized procedures for operating those distribution points;
 - (7) methods for providing basic medical support for disaster victims, including medical supplies and pharmaceuticals;
 - (8) provisions, developed in coordination with fuel suppliers and retailers, for the continued operation of service stations to provide fuel to disaster victims and emergency responders; and
 - (9) provisions for the dissemination of emergency information through the media to aid disaster victims.

(c) The division, in coordination with the Texas Commission on Environmental Quality and electric, gas, water, and wastewater utility providers, shall develop for inclusion in the annex to the state emergency management plan provisions to provide emergency or backup power to restore or continue the operation of critical water or wastewater facilities following a disaster. The provisions must:

- (1) establish an online resource database of available emergency generators configured for transport that are capable of providing backup power for critical water or wastewater facilities following a disaster;
- (2) include procedures for the maintenance, activation, transportation, and redeployment of available emergency generators;
- (3) develop a standardized form for use by a water or wastewater utility provider in developing and maintaining data on the number and type of emergency generators required for the operation of the provider's critical water or wastewater facilities following a disaster; and
- (4) include procedures for water or wastewater utility providers to maintain a current list of generators available in surrounding areas through mutual aid agreements, recognized and coordinated statewide mutual aid programs, and through commercial firms offering generators for rent or lease.

SECTION 1.06. Section 418.043, Government Code, is amended to read as follows:

Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;
- (2) procure and position supplies, medicines, materials, and equipment;
- (3) adopt standards and requirements for local and interjurisdictional emergency management plans;
- (4) periodically review local and interjurisdictional emergency management plans;

- (5) coordinate deployment of mobile support units;
- (6) establish and operate training programs and programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;
- (7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;
- (8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;
- (9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;
- (10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;
- (11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;
- (12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;
- (13) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery; ~~and~~
- (14) develop a plan to raise public awareness and expand the capability of the information and referral network under Section 531.0312;
- (15) improve the integration of volunteer groups, including faith-based organizations, into emergency management plans;
- (16) cooperate with the Federal Emergency Management Agency to create uniform guidelines for acceptable home repairs following disasters and promote public awareness of the guidelines;
- (17) cooperate with state agencies to:
 - (A) encourage the public to participate in volunteer emergency response teams and organizations that respond to disasters; and
 - (B) provide information on those programs in state disaster preparedness and educational materials and on Internet websites;
- (18) establish a liability awareness program for volunteers, including medical professionals; and
- (19) do other things necessary, incidental, or appropriate for the implementation of this chapter.

SECTION 1.07. Section 418.045, Government Code, is amended to read as follows:

Sec. 418.045. TEMPORARY PERSONNEL. (a) The division may employ or contract with temporary personnel from funds appropriated to the division, from federal funds, or from the disaster contingency fund. The merit system does not apply to the temporary or contract positions.

(b) The division may enroll, organize, train, and equip a cadre of disaster reservists with specialized skills in disaster recovery, hazard mitigation, community outreach, and public information to temporarily augment its permanent staff. The division may activate enrolled disaster reservists to support recovery operations in the aftermath of a disaster or major emergency and pay them at a daily rate commensurate with their qualifications and experience. Chapter 654, Chapter 2254, and Subtitle D, Title 10, do not apply in relation to a disaster reservist under this subsection.

SECTION 1.08. Section 418.048, Government Code, is amended to read as follows:

Sec. 418.048. ~~MONITORING WEATHER~~~~[;—SUSPENSION OF WEATHER MODIFICATION]~~. ~~[(a)]~~ The division shall keep continuously apprised of weather conditions that present danger of climatic activity, such as precipitation, severe enough to constitute a disaster.

~~[(b) If the division determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall request in the name of the governor that the officer or agency empowered to issue permits for weather modification operations suspend the issuance of permits. On the governor's request, no permits may be issued until the division informs the officer or agency that the danger has passed.]~~

SECTION 1.09. Subchapter C, Chapter 418, Government Code, is amended by adding Section 418.050 to read as follows:

Sec. 418.050. PHASED REENTRY PLAN. (a) The division shall develop a phased reentry plan to govern the order in which particular groups of people are allowed to reenter areas previously evacuated because of a disaster or threat of disaster. The plan may provide different reentry procedures for different types of disasters.

(b) The phased reentry plan shall:

(1) recognize the role of local emergency management directors in making decisions regarding the timing and implementation of reentry plans for a disaster; and

(2) provide local emergency management directors with sufficient flexibility to adjust the plan as necessary to accommodate the circumstances of a particular emergency.

(c) The division, in consultation with representatives of affected parties and local emergency management directors, shall develop a reentry credentialing process. The division shall include the credentialing process in the phased reentry plan. The Department of Public Safety of the State of Texas shall provide support for the credentialing process.

SECTION 1.10. Subchapter C, Chapter 418, Government Code, is amended by adding Section 418.051 to read as follows:

Sec. 418.051. COMMUNICATIONS COORDINATION GROUP. (a) The communications coordination group shall facilitate interagency coordination and collaboration to provide efficient and effective planning and execution of communications support to joint, interagency, and intergovernmental task forces.

(b) At the direction of the division, the communications coordination group shall assist with coordination and collaboration during an emergency.

(c) The communications coordination group consists of members selected by the division, including representatives of:

(1) the Texas military forces;

(2) the Department of Public Safety of the State of Texas;

(3) the Federal Emergency Management Agency;

(4) federal agencies that comprise Emergency Support Function No. 2;

(5) the telecommunications industry, including cable service providers, as defined by Section 66.002, Utilities Code;

(6) electric utilities, as defined by Section 31.002, Utilities Code;

(7) gas utilities, as defined by Sections 101.003 and 121.001, Utilities

Code;

(8) the National Guard's Joint Continental United States Communications Support Environment;

(9) the National Guard Bureau;

(10) amateur radio operator groups;

(11) the Texas Forest Service;

(12) the Texas Department of Transportation;

(13) the General Land Office;

(14) the Texas Engineering Extension Service of The Texas A&M University System;

(15) the Public Utility Commission of Texas;

(16) the Railroad Commission of Texas;

(17) the Department of State Health Services;

(18) the judicial branch of state government;

(19) the Texas Association of Regional Councils;

(20) the United States Air Force Auxiliary Civil Air Patrol, Texas

Wing;

(21) each trauma service area regional advisory council;

(22) state agencies, counties, and municipalities affected by the emergency; and

(23) other agencies as determined by the division.

SECTION 1.11. Section 418.1015, Government Code, is amended by adding Subsection (d) to read as follows:

(d) A person, other than an emergency management director exercising under Subsection (b) a power granted to the governor, may not seize state or federal resources without prior authorization from the division or the state or federal agency having responsibility for those resources.

SECTION 1.12. Section 418.107(b), Government Code, is amended to read as follows:

(b) Political subdivisions may make agreements for the purpose of organizing emergency management service divisions and provide for a mutual method of financing the organization of units on a basis satisfactory to the subdivisions. [The functioning of the units shall be coordinated by the emergency management council.]

SECTION 1.13. Section 418.108(d), Government Code, is amended to read as follows:

(d) A declaration of local disaster activates the appropriate recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration. The appropriate preparedness and response aspects of the plans are activated as provided in the plans and take effect immediately after the local state of disaster is declared.

SECTION 1.14. Section 418.117, Government Code, is amended to read as follows:

Sec. 418.117. LICENSE PORTABILITY. If the assistance of a person who holds a license, certificate, permit, or other document evidencing qualification in a professional, mechanical, or other skill is requested by a state agency or local government entity under the system, the person is considered licensed, certified, permitted, or otherwise documented in the political subdivision in which the service is provided as long as the service is required, subject to any limitations imposed by the chief executive officer or the governing body of the requesting state agency or local government entity.

SECTION 1.15. Section 418.172(b), Government Code, is amended to read as follows:

(b) If sufficient funds are not available for the required insurance, an agency may request funding from ~~[petition]~~ the disaster contingency fund ~~[emergency funding board]~~ to purchase the insurance ~~[on the agency's behalf. The board may spend money from that fund for that purpose].~~

SECTION 1.16. Subchapter H, Chapter 418, Government Code, is amended by adding Sections 418.185, 418.186, 418.188, 418.1881, 418.1882, 418.190, and 418.191 to read as follows:

Sec. 418.185. MANDATORY EVACUATION. (a) This section does not apply to a person who is authorized to be in an evacuated area, including a person who returns to the area under a phased reentry plan or credentialing process under Section 418.050.

(b) A county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster by order may compel persons who remain in the evacuated area to leave and authorize the use of reasonable force to remove persons from the area.

(c) The governor and a county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster by a concurrent order may compel persons who remain in the evacuated area to leave.

(d) A person is civilly liable to a governmental entity, or a nonprofit agency cooperating with a governmental entity, that conducts a rescue on the person's behalf for the cost of the rescue effort if:

(1) the person knowingly ignored a mandatory evacuation order under this section and:

(A) engaged in an activity or course of action that a reasonable person would not have engaged in; or

(B) failed to take a course of action a reasonable person would have taken;

(2) the person's actions under Subdivision (1) placed the person or another person in danger; and

(3) a governmental rescue effort was undertaken on the person's behalf.

(e) An officer or employee of the state or a political subdivision who issues or is working to carry out a mandatory evacuation order under this section is immune from civil liability for any act or omission within the course and scope of the person's authority under the order.

Sec. 418.186. DISASTER AND EMERGENCY EDUCATION. (a) The Department of State Health Services shall establish a program designed to educate the citizens of this state on disaster and emergency preparedness, response, and recovery. Before establishing the program, the department must collaborate with local authorities to prevent state efforts that are duplicative of local efforts. The program must address:

(1) types of disasters or other emergencies;
(2) the appropriate response to each type of disaster or emergency, including options for evacuation and shelter;

(3) how to prepare for each type of disaster or emergency;
(4) the impact of each type of disaster or emergency on citizens requiring medical assistance or other care;

(5) ways to respond in a disaster or emergency or to assist the victims of a disaster or emergency; and

(6) resources and supplies for disaster or emergency recovery.

(b) The executive commissioner of the Health and Human Services Commission, in cooperation with the governor, shall adopt rules to create and administer a disaster and emergency education program established under this section.

Sec. 418.188. POSTDISASTER EVALUATION. Not later than the 90th day after the date a request is received from the division, a state agency, political subdivision, or interjurisdictional agency shall conduct an evaluation of the entity's response to a disaster, identify areas for improvement, and issue a report of the evaluation to the division.

Sec. 418.1881. SHELTER OPERATIONS. The Department of State Health Services shall develop, with the direction, oversight, and approval of the division, an annex to the state emergency management plan that includes provisions for:

- (1) developing medical special needs categories;
- (2) categorizing the requirements of individuals with medical special needs; and
- (3) establishing minimum health-related standards for short-term and long-term shelter operations for shelters operated with state funds or receiving state assistance.

Sec. 418.1882. PERSONNEL SURGE CAPACITY PLANNING. (a) With the direction, oversight, and approval of the division and the assistance of the Department of State Health Services, health care facilities, county officials, trauma service area regional advisory councils, and other appropriate entities, each council of government, regional planning commission, or similar regional planning agency created under Chapter 391, Local Government Code, shall develop a regional plan for personnel surge capacity during disasters, including plans for providing lodging and meals for disaster relief workers and volunteers.

(b) Entities developing regional plans for personnel surge capacity with regard to lodging shall consult with representatives of emergency responders, infrastructure and utility repair personnel, and other representatives of agencies, entities, or businesses determined by the division to be essential to the planning process.

Sec. 418.190. AGRICULTURE EMERGENCY RESPONSE PLAN. (a) In coordination with the division, the Department of Agriculture and the Texas Animal Health Commission shall prepare and keep current an agriculture emergency response plan as an annex to the state emergency management plan. The plan must include provisions for:

- (1) identifying and assessing necessary training, resource, and support requirements;
- (2) providing information on recovery, relief, and assistance requirements following all types of disasters, including information on biological and radiological response; and
- (3) all other information the Department of Agriculture and the Texas Animal Health Commission determine to be relevant to prepare for an all-hazards approach to agricultural disaster management.

(b) The Department of Agriculture and the Texas Animal Health Commission shall include the plan developed under Subsection (a) in an annual report to the legislature and the office of the governor.

Sec. 418.191. MEDICAL SPECIAL NEEDS VOLUNTEERS. (a) An entity responsible for the care of individuals with medical special needs shall develop and distribute information on volunteering in connection with a disaster.

(b) The division shall provide information to interested parties and the public regarding how volunteers can be identified and trained to help all groups of people, including those with medical special needs and those who are residents of assisted living facilities.

SECTION 1.17. Subchapter B, Chapter 242, Health and Safety Code, is amended by adding Section 242.0395 to read as follows:

Sec. 242.0395. REGISTRATION WITH TEXAS INFORMATION AND REFERRAL NETWORK. (a) An institution licensed under this chapter shall register with the Texas Information and Referral Network under Section 531.0312, Government Code, to assist the state in identifying persons needing assistance if an area is evacuated because of a disaster or other emergency.

(b) The institution is not required to identify individual residents who may require assistance in an evacuation or to register individual residents with the Texas Information and Referral Network for evacuation assistance.

(c) The institution shall notify each resident and the resident's next of kin or guardian regarding how to register for evacuation assistance with the Texas Information and Referral Network.

SECTION 1.18. Subchapter B, Chapter 247, Health and Safety Code, is amended by adding Section 247.0275 to read as follows:

Sec. 247.0275. REGISTRATION WITH TEXAS INFORMATION AND REFERRAL NETWORK. (a) An assisted living facility licensed under this chapter shall register with the Texas Information and Referral Network under Section 531.0312, Government Code, to assist the state in identifying persons needing assistance if an area is evacuated because of a disaster or other emergency.

(b) The assisted living facility is not required to identify individual residents who may require assistance in an evacuation or to register individual residents with the Texas Information and Referral Network for evacuation assistance.

(c) The assisted living facility shall notify each resident and the resident's next of kin or guardian regarding how to register for evacuation assistance with the Texas Information and Referral Network.

SECTION 1.19. Subchapter B, Chapter 207, Labor Code, is amended by adding Section 207.0212 to read as follows:

Sec. 207.0212. ELIGIBILITY OF CERTAIN PERSONS UNEMPLOYED BECAUSE OF DISASTER. (a) In this section, "disaster unemployment assistance benefits" means benefits authorized under Section 410, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5177), and rules adopted under that section.

(b) Notwithstanding Section 207.021, the governor, by executive order, may suspend the waiting period requirement imposed under Section 207.021(a)(7) to authorize an individual to receive benefits for that waiting period if the individual:

(1) is unemployed as a direct result of a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(2) is otherwise eligible for unemployment compensation benefits under this subtitle; and

(3) is not receiving disaster unemployment assistance benefits for the period included in that waiting period.

SECTION 1.20. Sections 541.201(1) and (13-a), Transportation Code, are amended to read as follows:

(1) "Authorized emergency vehicle" means:

(A) a fire department or police vehicle;

(B) a public or private ambulance operated by a person who has been issued a license by the Texas Department of Health;

(C) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

(D) a private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

(E) an industrial emergency response vehicle, including an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the predecessor of the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas; ~~or~~

(F) a vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines, or organs; or

(G) a vehicle used for law enforcement purposes that is owned or leased by a federal governmental entity.

(13-a) "Police vehicle" means a vehicle ~~[of a governmental entity primarily]~~ used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, for law enforcement purposes that:

(A) is owned or leased by a governmental entity;

(B) is owned or leased by the police department of a private institution of higher education that commissions peace officers under Section 51.212, Education Code; or

(C) is:

(i) a private vehicle owned or leased by the peace officer; and

(ii) approved for use for law enforcement purposes by the head of the law enforcement agency that employs the peace officer, or by that person's designee, provided that use of the private vehicle must, if applicable, comply with any rule adopted by the commissioners court of a county under Section 170.001, Local Government Code, and that the private vehicle may not be considered an authorized emergency vehicle for exemption purposes under Section 228.054, 284.070, 366.178, or 370.177, Transportation Code, unless the vehicle is marked.

SECTION 1.21. Section 545.421(b), Transportation Code, is amended to read as follows:

(b) A signal under this section that is given by a police officer pursuing a vehicle may be by hand, voice, emergency light, or siren. The officer giving the signal must be in uniform and prominently display the officer's badge of office. The officer's vehicle must bear the insignia of a law enforcement agency, regardless of whether the vehicle displays an emergency light ~~[be appropriately marked as an official police vehicle].~~

SECTION 1.22. Section 418.072, Government Code, is repealed.

SECTION 1.23. On the effective date of this Act, the disaster emergency funding board is abolished.

SECTION 1.24. The changes in law made by this Act by the amendment of Section 418.005, Government Code, apply only to a law enforcement officer or county judge elected or public officer appointed on or after the effective date of this Act. A law enforcement officer or county judge elected or public officer appointed before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 1.25. The change in law made by Section 207.0212, Labor Code, as added by this Act, applies only to a claim for unemployment compensation benefits that is filed with the Texas Workforce Commission on or after the effective date of this Act. A claim filed before that date is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose.

SECTION 1.26. (a) Not later than the 30th day after the effective date of this section, the division of emergency management shall issue a report to the legislature regarding the implementation of medical special needs plans in connection with Hurricane Ike, including identification, evacuation, transportation, shelter, care, and reentry during the period ending on the 30th day after the conclusion of the disaster. The Department of State Health Services shall cooperate in the preparation of the report.

(b) Subsection (a) of this section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Subsection (a) of this section takes effect September 1, 2009.

ARTICLE 2. EMERGENCY ELECTRICAL POWER

SECTION 2.01. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2311 to read as follows:

CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL GOVERNMENTAL FACILITIES

Sec. 2311.001. DEFINITIONS. In this chapter:

- (1) "Combined heating and power system" means a system that:
- (A) is located on the site of a facility;
 - (B) is the primary source of both electricity and thermal energy for the facility;
 - (C) can provide all of the electricity needed to power the facility's critical emergency operations for at least 14 days; and
 - (D) has an overall efficiency of energy use that exceeds 60 percent.
- (2) "Critical governmental facility" means a building owned by the state or a political subdivision of the state that is expected to:
- (A) be continuously occupied;
 - (B) maintain operations for at least 6,000 hours each year;
 - (C) have a peak electricity demand exceeding 500 kilowatts; and
 - (D) serve a critical public health or public safety function during a natural disaster or other emergency situation that may result in a widespread power outage, including a:
 - (i) command and control center;
 - (ii) shelter;
 - (iii) prison or jail;
 - (iv) police or fire station;
 - (v) communications or data center;

- (vi) water or wastewater facility;
- (vii) hazardous waste storage facility;
- (viii) biological research facility;
- (ix) hospital; or
- (x) food preparation or food storage facility.

Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When constructing or extensively renovating a critical governmental facility or replacing major heating, ventilation, and air-conditioning equipment for a critical governmental facility, the entity with charge and control of the facility shall evaluate whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period. Notwithstanding Chapter 2302, the entity may equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs.

SECTION 2.02. Subchapter D, Chapter 38, Utilities Code, is amended by adding Section 38.073 to read as follows:

Sec. 38.073. AUTHORITY OF COMMISSION DURING AN EMERGENCY. (a) On a declaration of a natural disaster or other emergency by the governor, the commission may require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, or power marketer to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the natural disaster or other emergency. Any plant, property, equipment, or other items used to receive or deliver electricity under this subsection are used and useful in delivering service to the public, and the commission shall allow timely recovery for the costs of those items. The commission may order an electric utility, municipally owned utility, or electric cooperative to provide interconnection service to another electric utility, municipally owned utility, or electric cooperative to facilitate a sale of electricity under this section. If the commission does not order the sale of electricity during a declared emergency as described by this subsection, the commission shall promptly submit to the legislature a report describing the reasons why the commission did not make that order.

(b) If an entity receives electricity under Subsection (a), the receiving entity shall reimburse the supplying entity for the actual cost of providing the electricity. The entity receiving the electricity is responsible for any transmission and distribution service charges specifically incurred in relation to providing the electricity.

(c) An entity that pays for electricity received under Subsection (b) and that is regulated by the commission may fully recover the cost of the electricity in a timely manner by:

- (1) including the cost in the entity's fuel cost under Section 36.203; or
- (2) notwithstanding Section 36.201, imposing a different surcharge.

SECTION 2.03. Chapter 38, Utilities Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. INFRASTRUCTURE IMPROVEMENT AND
MAINTENANCE REPORT

Sec. 38.101. REPORT ON INFRASTRUCTURE IMPROVEMENT AND MAINTENANCE. (a) Not later than May 1 of each year, each electric utility shall submit to the commission a report describing the utility's activities related to:

- (1) identifying areas that are susceptible to damage during severe weather and hardening transmission and distribution facilities in those areas;
- (2) vegetation management; and
- (3) inspecting distribution poles.

(b) Each electric utility shall include in a report required under Subsection (a) a summary of the utility's activities related to preparing for emergency operations.

SECTION 2.04. (a) Not later than November 1, 2009, the Public Utility Commission of Texas shall conduct and complete a study to evaluate:

- (1) the locations in this state that are most likely to experience a natural disaster or other emergency;
- (2) the ability of each entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, to comply with that section in the event of a natural disaster or other emergency;
- (3) any steps an entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, should take to prepare to comply with that section; and
- (4) the potential for distributed generation, including renewable power with battery backup and combined heat and power systems, to strengthen reliability of electric service during a natural disaster or other emergency.

(b) An entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, shall comply with any order issued by the Public Utility Commission of Texas under that subsection while the study required by Subsection (a) of this section is conducted.

(c) The Public Utility Commission of Texas shall prepare a report based on the study conducted under Subsection (a) of this section. The report must include any recommendations the commission considers advisable in relation to the implementation of and compliance with Section 38.073, Utilities Code, as added by this Act. The commission may include the report in the report required by Section 31.003, Utilities Code.

SECTION 2.05. The Public Utility Commission of Texas shall adopt rules consistent with Subchapter E, Chapter 38, Utilities Code, as added by this Act, not later than October 1, 2009.

ARTICLE 3. HEALTH AND SAFETY PROVISIONS

SECTION 3.01. Subtitle F, Title 2, Health and Safety Code, is amended by adding Chapter 123 to read as follows:

CHAPTER 123. PUBLIC HEALTH EXTENSION SERVICE PILOT
PROGRAM

Sec. 123.001. DEFINITIONS. In this chapter:

- (1) "Department" means the Department of State Health Services; and
- (2) "Program" means the public health extension service pilot program established under this chapter.

Sec. 123.002. PROGRAM ESTABLISHED; PURPOSES. (a) The department shall establish a public health extension service pilot program in Health Service Region 11, a region of the state that may be particularly vulnerable to biosecurity threats, disaster, and other emergencies.

(b) The purpose of the program is to support local public health and medical infrastructure, promote disease control and medical preparedness, and enhance biosecurity, including detection of dangerous biologic agents, availability of pathology services, and management of hazardous materials.

Sec. 123.003. RULES. The executive commissioner of the Health and Human Services Commission may adopt rules for the implementation and administration of the program.

Sec. 123.004. PROGRAM ADMINISTRATION. The department may contract with The Texas A&M University System or The University of Texas System or both to implement or administer the program.

Sec. 123.005. PROGRAM OBJECTIVES. Through the program, the department may implement projects and systems to accomplish the purposes of the program described by Section 123.002, and may:

(1) provide support for regional disaster medical assistance teams and tactical medical operations incident management teams;

(2) establish a disaster training and exercise program;

(3) establish and equip caches of necessary medical supplies and equipment for use in disasters and other emergencies;

(4) establish a regionally based system of emergency medical logistics management to support state and federal emergency management authorities, including local patient triage sites and local emergency medical operations; and

(5) establish a regionally based system to provide technical assistance for disaster mitigation and recovery.

Sec. 123.006. REPORT. Not later than December 1, 2010, the department shall report to the governor, lieutenant governor, and speaker of the house of representatives on the program, including recommendations for continuing and expanding the program to other regions of the state.

Sec. 123.007. EXPIRATION. This chapter expires and the program is abolished September 2, 2011.

SECTION 3.02. Section 251.012, Health and Safety Code, is amended to read as follows:

Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. The following facilities are not required to be licensed under this chapter:

(1) a home and community support services agency licensed under Chapter 142 with a home dialysis designation;

(2) a hospital licensed under Chapter 241 that provides dialysis only to:

(A) individuals receiving inpatient services from the hospital; or

(B) individuals receiving outpatient services due to a disaster declared by the governor or a federal disaster declared by the president of the United States occurring in this state or another state during the term of the disaster declaration; or

(3) the office of a physician unless the office is used primarily as an end stage renal disease facility.

SECTION 3.03. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 695 to read as follows:

CHAPTER 695. IN-CASKET IDENTIFICATION

Sec. 695.001. DEFINITIONS. In this chapter:

(1) "Casket" means a container used to hold the remains of a deceased person.

(2) "Commission" means the Texas Funeral Service Commission.

Sec. 695.002. IDENTIFICATION OF DECEASED PERSON. The commission shall ensure a casket contains identification of the deceased person, including the person's name, date of birth, and date of death.

Sec. 695.003. RULES. The commission may adopt rules to enforce this chapter.

SECTION 3.03a. Subchapter D, Chapter 771, Health and Safety Code, is amended by adding Section 771.0712 to read as follows:

Sec. 771.0712. PREPAID 9-1-1 EMERGENCY SERVICE FEE. (a) To ensure that all 9-1-1 agencies under Section 418.051, Government Code are adequately funded, beginning on June 1, 2010, a prepaid wireless 9-1-1 emergency services fee of two percent of the purchase price of each prepaid wireless telecommunications service purchased by any method, shall be collected by the seller from the consumer at the time of each retail transaction of prepaid wireless telecommunications service occurring in this state and remitted to the comptroller consistent with Chapter 151, Tax Code, and distributed consistent with the procedures in place for the emergency services fee in Section 771.0711, Health and Safety Code. A seller may deduct and retain two percent of prepaid wireless 9-1-1 emergency services fees that it collects under this section to offset its costs in administering this fee.

(b) The comptroller shall adopt rules to implement this section by June 1, 2010.

SECTION 3.04. The change in law made by this Act by the amendment of Section 251.012, Health and Safety Code, applies only to dialysis services provided on or after the effective date of this Act. Dialysis services provided before the effective date of this Act are covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

ARTICLE 4. PROVISIONS RELATED TO CERTAIN PUBLIC EMPLOYEES

SECTION 4.01. Subchapter B, Chapter 659, Government Code, is amended by adding Section 659.025 to read as follows:

Sec. 659.025. USE OF COMPENSATORY TIME BY CERTAIN EMERGENCY SERVICES PERSONNEL; OPTIONAL OVERTIME PAYMENT. (a) In this section, "emergency services personnel" includes firefighters, police officers and other peace officers, emergency medical technicians, emergency management personnel, and other individuals who are required, in the course and scope of their employment, to provide services for the benefit of the general public during emergency situations.

(b) This section applies only to a state employee who is emergency services personnel, who is not subject to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and who is not an employee of the legislature, including an employee of the lieutenant governor or of a legislative agency.

(c) Notwithstanding Section 659.016 or any other law, an employee to whom this section applies may be allowed to take compensatory time off during the 18-month period following the end of the workweek in which the compensatory time was accrued.

(d) Notwithstanding Section 659.016 or any other law, the administrative head of a state agency that employs an employee to whom this section applies may pay the employee overtime at the employee's regular hourly salary rate for

all or part of the hours of compensatory time off accrued by the employee during a declared disaster in the preceding 18-month period. The administrative head shall reduce the employee's compensatory time balance by one hour for each hour the employee is paid overtime under this section.

SECTION 4.02. Subchapter H, Chapter 660, Government Code, is amended by adding Section 660.209 to read as follows:

Sec. 660.209. STATE EMERGENCY SERVICES PERSONNEL. (a) In this section, "emergency services personnel" includes firefighters, police officers and other peace officers, emergency medical technicians, emergency management personnel, and other individuals who are required, in the course and scope of their employment, to provide services for the benefit of the general public during emergency situations.

(b) Notwithstanding any other provision of this chapter or the General Appropriations Act, a state employee who is emergency services personnel and who is deployed to a temporary duty station to conduct emergency or disaster response activities is entitled to reimbursement for the actual expense of lodging when there is no room available at the state rate within reasonable proximity to the employee's temporary duty station.

SECTION 4.03. Section 161.0001(1-a), Health and Safety Code, is amended to read as follows:

(1-a) "First responder" means:

(A) any federal, state, local, or private personnel who may respond to a disaster, including:

(i) public health and public safety personnel;

(ii) commissioned law enforcement personnel;

(iii) fire protection personnel, including volunteer firefighters;

(iv) emergency medical services personnel, including hospital emergency facility staff;

(v) a member of the National Guard;

(vi) a member of the Texas State Guard; or

(vii) any other worker who responds to a disaster in the worker's scope of employment; or

(B) any related personnel that provide support services during the prevention, response, and recovery phases of a disaster [has the meaning assigned by Section 421.095, Government Code].

ARTICLE 5. JUDICIAL PREPAREDNESS

SECTION 5.01. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.0035 to read as follows:

Sec. 22.0035. MODIFICATION OR SUSPENSION OF CERTAIN PROVISIONS RELATING TO COURT PROCEEDINGS AFFECTED BY DISASTER. (a) In this section, "disaster" has the meaning assigned by Section 418.004.

(b) Notwithstanding any other statute, the supreme court may modify or suspend procedures for the conduct of any court proceeding affected by a disaster during the pendency of a disaster declared by the governor. An order under this section may not extend for more than 30 days from the date the order was signed unless renewed by the supreme court.

(c) If a disaster prevents the supreme court from acting under Subsection (b), the chief justice of the supreme court may act on behalf of the supreme court under that subsection.

(d) If a disaster prevents the chief justice from acting under Subsection (c), the court of criminal appeals may act on behalf of the supreme court under Subsection (b).

(e) If a disaster prevents the court of criminal appeals from acting under Subsection (d), the presiding judge of the court of criminal appeals may act on behalf of the supreme court under Subsection (b).

SECTION 5.02. Section 74.093(c), Government Code, is amended to read as follows:

(c) The rules may provide for:

(1) the selection and authority of a presiding judge of the courts giving preference to a specified class of cases, such as civil, criminal, juvenile, or family law cases; ~~and~~

(2) a coordinated response for the transaction of essential judicial functions in the event of a disaster; and

(3) any other matter necessary to carry out this chapter or to improve the administration and management of the court system and its auxiliary services.

SECTION 5.03. Section 418.002, Government Code, is amended to read as follows:

Sec. 418.002. PURPOSES. The purposes of this chapter are to:

(1) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action;

(2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;

(3) provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by disasters;

(4) clarify and strengthen the roles of the governor, state agencies, the judicial branch of state government, and local governments in prevention of, preparation for, response to, and recovery from disasters;

(5) authorize and provide for cooperation in disaster mitigation, preparedness, response, and recovery;

(6) authorize and provide for coordination of activities relating to disaster mitigation, preparedness, response, and recovery by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;

(7) provide an emergency management system embodying all aspects of predisaster preparedness and postdisaster response;

(8) assist in mitigation of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and

(9) provide the authority and mechanism to respond to an energy emergency.

SECTION 5.04. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

ARTICLE 6. EDUCATION PROVISIONS

SECTION 6.01. The heading to Section 37.108, Education Code, is amended to read as follows:

Sec. 37.108. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY AND SECURITY AUDIT.

SECTION 6.02. Section 37.108, Education Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (c-1) and (c-2) to read as follows:

(a) Each school district or public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities [~~district schools~~]. The plan must address mitigation, preparedness, response, and recovery as defined by the commissioner of education or commissioner of higher education in conjunction with the governor's office of homeland security. The plan must provide for:

- (1) district employee training in responding to an emergency;
- (2) if the plan applies to a school district, mandatory school drills and exercises to prepare district students and employees for responding to an emergency;
- (3) measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and
- (4) the implementation of a safety and security audit as required by Subsection (b).

(b) At least once every three years, each [✱] school district or public junior college district shall conduct a safety and security audit of the district's facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the Texas School Safety Center or a comparable public or private entity.

(c) A school district or public junior college district shall report the results of the safety and security audit conducted under Subsection (b) to the district's board of trustees and, in the manner required by the Texas School Safety Center, to the Texas School Safety Center.

(c-1) Except as provided by Subsection (c-2), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (b) is not subject to disclosure under Chapter 552, Government Code.

(c-2) A document relating to a school district's or public junior college district's multihazard emergency operations plan is subject to disclosure if the document enables a person to:

(1) verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including the Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;

(2) verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;

(3) verify that the plan addresses the four phases of emergency management under Subsection (a);

(4) verify that district employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;

(5) verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;

(6) if the district is a school district, verify that the district has established a plan for responding to a train derailment if required under Subsection (d);

(7) verify that the district has completed a safety and security audit under Subsection (b) and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the district's board of trustees;

(8) verify that the district has addressed any recommendations by the district's board of trustees for improvement of the plan and determine the district's progress within the last 12 months; and

(9) if the district is a school district, verify that the district has established a visitor policy and identify the provisions governing access to a district building or other district property.

SECTION 6.03. Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.109 to read as follows:

Sec. 37.109. SCHOOL SAFETY AND SECURITY COMMITTEE. (a) In accordance with guidelines established by the Texas School Safety Center, each school district shall establish a school safety and security committee.

(b) The committee shall:

(1) participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan required by Section 37.108(a) to ensure that the plans reflect specific campus, facility, or support services needs;

(2) provide the district with any campus, facility, or support services information required in connection with a safety and security audit required by Section 37.108(b), a safety and security audit report required by Section 37.108(c), or another report required to be submitted by the district to the Texas School Safety Center; and

(3) review each report required to be submitted by the district to the Texas School Safety Center to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center.

SECTION 6.04. Section 37.202, Education Code, is amended to read as follows:

Sec. 37.202. PURPOSE. The purpose of the center is to serve as:

(1) a central location for school safety and security information, including research, training, and technical assistance related to successful school safety and security programs; ~~and~~

(2) a central registry of persons providing school safety and security consulting services in the state; and

(3) a resource for the prevention of youth violence and the promotion of safety in the state.

SECTION 6.05. Section 37.203(a), Education Code, as amended by Chapters 258 (SB 11) and 263 (SB 103), Acts of the 80th Legislature, Regular Session, 2007, is reenacted to read as follows:

(a) The center is advised by a board of directors composed of:

(1) the attorney general, or the attorney general's designee;

(2) the commissioner, or the commissioner's designee;

(3) the executive director of the Texas Juvenile Probation Commission, or the executive director's designee;

(4) the executive commissioner of the Texas Youth Commission, or the executive commissioner's designee;

(5) the commissioner of the Department of State Health Services, or the commissioner's designee;

(6) the commissioner of higher education, or the commissioner's designee; and

(7) the following members appointed by the governor with the advice and consent of the senate:

(A) a juvenile court judge;

(B) a member of a school district's board of trustees;

(C) an administrator of a public primary school;

(D) an administrator of a public secondary school;

(E) a member of the state parent-teacher association;

(F) a teacher from a public primary or secondary school;

(G) a public school superintendent who is a member of the Texas Association of School Administrators;

(H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and

(I) two members of the public.

SECTION 6.06. Section 37.203(b), Education Code, is amended to read as follows:

(b) Members of the board appointed under Subsection (a)(7) ~~[(a)(6)]~~ serve staggered two-year terms, with the terms of the members described by Subsections (a)(7)(A)-(E) ~~[(a)(6)(A)-(E)]~~ expiring on February 1 of each odd-numbered year and the terms of the members described by Subsections (a)(7)(F)-(I) ~~[(a)(6)(F)-(I)]~~ expiring on February 1 of each even-numbered year. A member may serve more than one term.

SECTION 6.07. Section 37.207(a), Education Code, is amended to read as follows:

(a) The center shall develop a model safety and security audit procedure for use by school districts and public junior college districts that includes:

(1) providing each district with guidelines ~~[and a training video]~~ showing proper audit procedures;

(2) reviewing elements of each district audit ~~[, providing the results of the review to the district,]~~ and making recommendations for improvements in the state based on that review ~~[the audit]~~; and

(3) incorporating the findings of district audits in a statewide report on school safety and security made available by the center to the public.

SECTION 6.08. Section 37.209, Education Code, is amended to read as follows:

Sec. 37.209. CENTER WEBSITE. The center shall develop and maintain an interactive Internet website that includes:

(1) quarterly news updates related to school safety and security and violence prevention;

(2) school crime data;

(3) a schedule of training and special events; and

(4) a list of persons who ~~[approved by the board to]~~ provide school safety or security consulting services in this state and are registered in accordance with Section 37.2091 ~~[presentations]~~.

SECTION 6.09. Subchapter G, Chapter 37, Education Code, is amended by adding Sections 37.2091 and 37.2121 to read as follows:

Sec. 37.2091. REGISTRY OF PERSONS PROVIDING SCHOOL SAFETY OR SECURITY CONSULTING SERVICES. (a) In this section, "school safety or security consulting services" includes any service provided to a school district, institution of higher education, district facility, or campus by a person consisting of advice, information, recommendations, data collection, or safety and security audit services relevant to school safety and security, regardless of whether the person is paid for those services.

(b) The center shall establish a registry of persons providing school safety or security consulting services in this state.

(c) Each person providing school safety or security consulting services in this state shall register with the center in accordance with requirements established by the center. The requirements must include provisions requiring a person registering with the center to provide information regarding:

(1) the person's background, education, and experience that are relevant to the person's ability to provide knowledgeable and effective school safety or security consulting services; and

(2) any complaints or pending litigation relating to the person's provision of school safety or security consulting services.

(d) The registry is intended to serve only as an informational resource for school districts and institutions of higher education. The inclusion of a person in the registry is not an indication of the person's qualifications or ability to provide school safety or security consulting services or that the center endorses the person's school safety or security consulting services.

(e) The center shall include information regarding the registry, including the number of persons registered and the general degree of school safety or security experience possessed by those persons, in the biennial report required by Section 37.216.

Sec. 37.2121. MEMORANDA OF UNDERSTANDING AND MUTUAL AID AGREEMENTS. (a) The center shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.

(b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:

(1) must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;

(2) may include sample language for those provisions; and

(3) must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.

(c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).

(d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide the following information to the center:

(1) the name of each entity with which the school district has entered into a memorandum of understanding or mutual aid agreement;

(2) the effective date of each memorandum or agreement; and

(3) a summary of each memorandum or agreement.

(e) The center shall include information regarding the center's efforts under this section in the report required by Section 37.216.

SECTION 6.10. Section 37.213, Education Code, is amended to read as follows:

Sec. 37.213. PUBLIC JUNIOR COLLEGES [~~INSTITUTIONS OF HIGHER EDUCATION~~]. (a) In this section, "public junior college" [~~"institution of higher education"~~] has the meaning assigned by Section 61.003.

(b) The center shall research best practices regarding emergency preparedness of public junior colleges and serve as a clearinghouse for that information.

(c) The center shall provide public junior colleges with training, technical assistance, and published guidelines or templates, as appropriate, in the following areas:

(1) multihazard emergency operations plan development;

(2) drill and exercise development and implementation;

(3) mutual aid agreements;

(4) identification of equipment and funds that may be used by public junior colleges in an emergency; and

(5) reporting in accordance with 20 U.S.C. Section 1092(f) [~~An institution of higher education may use any appropriate model plan developed by the center under Section 37.205(4).~~]

~~[(c) The center may provide an institution of higher education with on-site technical assistance and safety training.~~

~~[(d) The center may charge a fee to an institution of higher education for assistance and training provided under Subsection (c).]~~

SECTION 6.11. Section 37.216, Education Code, is amended to read as follows:

Sec. 37.216. BIENNIAL [~~ANNUAL~~] REPORT. (a) Not later than January [~~September~~] 1 of each odd-numbered year, the board shall provide a report to the governor, the legislature, the State Board of Education, and the agency.

(b) The biennial [~~annual~~] report must include any findings made by the center regarding school safety and security and the center's functions, budget information, and strategic planning initiatives of the center.

SECTION 6.12. Subchapter G, Chapter 37, Education Code, is amended by adding Section 37.2161 to read as follows:

Sec. 37.2161. SCHOOL SAFETY AND SECURITY PROGRESS REPORT. (a) The center shall periodically provide a school safety and security progress report to the governor, the legislature, the State Board of Education, and the agency that contains current information regarding school safety and security in the school districts and public junior college districts of this state based on:

(1) elements of each district's multihazard emergency operations plan required by Section 37.108(a);

(2) elements of each district's safety and security audit required by Section 37.108(b); and

(3) any other report required to be submitted to the center.

(b) The center shall establish guidelines regarding the specific information to be included in the report required by this section.

(c) The center may provide the report required by this section in conjunction with the report required by Section 37.216.

SECTION 6.13. Subchapter E, Chapter 51, Education Code, is amended by adding Section 51.217 to read as follows:

Sec. 51.217. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY AND SECURITY AUDIT. (a) In this section, "institution" means a general academic teaching institution, a medical and dental unit, or other agency of higher education, as those terms are defined by Section 61.003.

(b) An institution shall adopt and implement a multihazard emergency operations plan for use at the institution. The plan must address mitigation, preparedness, response, and recovery. The plan must provide for:

(1) employee training in responding to an emergency;

(2) mandatory drills to prepare students, faculty, and employees for responding to an emergency;

(3) measures to ensure coordination with the Department of State Health Services, local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and

(4) the implementation of a safety and security audit as required by Subsection (c).

(c) At least once every three years, an institution shall conduct a safety and security audit of the institution's facilities. To the extent possible, an institution shall follow safety and security audit procedures developed in consultation with the division of emergency management of the office of the governor.

(d) An institution shall report the results of the safety and security audit conducted under Subsection (c) to the institution's board of regents and the division of emergency management of the office of the governor.

(e) Except as provided by Subsection (f), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (c) is not subject to disclosure under Chapter 552, Government Code.

(f) A document relating to an institution's multihazard emergency operations plan is subject to disclosure if the document enables a person to:

(1) verify that the institution has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the institution to respond to an emergency, including the Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;

(2) verify that the institution's plan was reviewed within the last 12 months and determine the specific review dates;

(3) verify that the plan addresses the four phases of emergency management under Subsection (b);

(4) verify that institution employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;

(5) verify that each campus has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;

(6) verify that the institution has completed a safety and security audit under Subsection (c) and determine the date the audit was conducted, the person conducting the audit, and the date the institution presented the results of the audit to the board of regents; and

(7) verify that the institution has addressed any recommendations by the board of regents for improvement of the plan and determine the institution's progress within the last 12 months.

SECTION 6.13a. Chapter 111, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. UNIVERSITY OF HOUSTON HURRICANE CENTER
FOR INNOVATIVE TECHNOLOGY

Sec. 111.121. DEFINITIONS. In this subchapter:

(1) "Board" means the board of regents of the University of Houston System.

(2) "Center" means the University of Houston Hurricane Center for Innovative Technology (UHC-IT) established under this subchapter.

Sec. 111.122. ESTABLISHMENT. (a) The University of Houston Hurricane Center for Innovative Technology is established at the University of Houston.

(b) The organization, control, and management of the center are vested in the board.

(c) The center shall be hosted by the university's College of Engineering. Participation in the center's activities shall be open to any faculty member of the university who is an active researcher in the field of materials, nanotechnology, structural engineering, designing of structures, or sensor technology, or in another relevant field as determined by the university.

Sec. 111.123. PURPOSE. The center is created to:

(1) promote interdisciplinary research, education, and training for the development of state-of-the-art products, materials, systems, and technologies designed to mitigate the wind, and asserted structural damages in the built environment and offshore structures caused by hurricanes in the Gulf Coast region; and

(2) develop protocols for the fast and efficient recovery of the public and private sectors, including utilities, hospitals, petrochemical industries, offshore platforms, and municipalities and other local communities following a hurricane.

Sec. 111.124. POWERS AND DUTIES. The center shall:

(1) collaborate with appropriate federal, state, and local agencies and private business or nonprofit entities as necessary to coordinate efforts after a hurricane in the Gulf Coast region;

(2) develop smart materials and devices for use in hurricane protection and mitigation systems for structural monitoring;

(3) develop anchor systems for window and door screens, dwellings and other buildings, pipelines, and other onshore and offshore structures to withstand hurricane wind damage;

(4) develop test facilities for evaluating the performance of new products, materials, or techniques designed to protect against hurricane wind damage;

(5) develop specifications and standards for products used for protecting against hurricane wind damage;

(6) design buildings, houses, and other structures to withstand hurricane wind damage; and

(9) provide hurricane-related educational programs, seminars, conferences, and workshops to the community designed to ensure safety, minimize loss of life, and mitigate the destruction of property associated with hurricane wind damage.

Sec. III.125. COLLABORATION WITH OTHER ENTITIES. The University of Houston shall encourage public and private entities to participate in or support the operation of the center and may enter into an agreement with any public or private entity for that purpose. An agreement may allow the center to provide information, services, or other assistance to an entity in exchange for the entity's participation or support.

Sec. III.126. GIFTS AND GRANTS. The board may solicit, accept, and administer gifts and grants from any public or private source and use existing resources for the purposes of the center. State funding is not available unless the legislature makes specific appropriation for this purpose.

Sec. III.127. PERSONNEL. The board may employ personnel for the center as necessary.

SECTION 6.14. Section 418.004(10), Government Code, is amended to read as follows:

(10) "Local government entity" means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

SECTION 6.15. Section 37.210, Education Code, is repealed.

SECTION 6.16. Sections 37.108(c-1) and (c-2), and Sections 51.217(d) and (e), Education Code, as added by this article, apply only to a request for documents or information that is received on or after the effective date of this article. A request for documents or information that was received before the effective date of this article is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 6.17. A person providing school safety or security consulting services in this state shall comply with Section 37.2091, Education Code, as added by this article, not later than January 1, 2010.

SECTION 6.18. This article does not make an appropriation. A provision in this article that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 6.19. This article takes effect September 1, 2009.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

Representative Corte moved to adopt the conference committee report on **HB 1831**.

The motion to adopt the conference committee report on **HB 1831** prevailed by (Record 1702): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel;

(b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person:

(1) without obtaining the other person's consent;

(2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and

(3) with the intent to harm or defraud any person.

(c) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) is a Class A misdemeanor, except that the offense is a felony of the third degree if the actor commits the offense with the intent to solicit a response by emergency personnel.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(e) It is a defense to prosecution under this section that the actor is any of the following entities or that the actor's conduct consisted solely of action taken as an employee of any of the following entities:

(1) a commercial social networking site;

(2) an Internet service provider;

(3) an interactive computer service, as defined by 47 U.S.C. Section 230;

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

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

(f) In this section:

(1) "Commercial social networking site" means any business, organization, or other similar entity operating a website that permits persons to become registered users for the purpose of establishing personal relationships with other users through direct or real-time communication with other users or the creation of web pages or profiles available to the public or to other users. The term does not include an electronic mail program or a message board program.

(2) "Identifying information" has the meaning assigned by Section 32.51.

SECTION 2. This Act takes effect September 1, 2009.

Representative McCall moved to adopt the conference committee report on **HB 2003**.

The motion to adopt the conference committee report on **HB 2003** prevailed by (Record 1703): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter;

(2) whether the United States Food and Drug Administration has approved a medication for use by a child of a certain age;

(3) whether a child has successfully taken a medication previously;

(4) access to quality medical care for a child receiving benefits under the program;

(5) the standard of care in the medical profession regarding the provision of such medications to a child; and

(6) any other factor the commission considers relevant.

(c) Not later than November 10, 2010, the executive commissioner shall submit a report containing the results of the study conducted under Subsection (a) to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the Senate Committee on Health and Human Services and the House Committee on Public Health.

SECTION 2. This Act takes effect September 1, 2009.

Representative S. Turner moved to adopt the conference committee report on **HB 2163**.

The motion to adopt the conference committee report on **HB 2163** prevailed by (Record 1704): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

HB 2553 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hilderbran submitted the following conference committee report on **HB 2553**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2553** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Davis	Hilderbran
Carona	Corte
Watson	Phillips
On the part of the senate	On the part of the house

HB 2553, A bill to be entitled An Act relating to the registration and operation of certain motor vehicles.

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

SECTION 1. Section 29.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 29.001. DEFINITION. In this chapter, "off-highway vehicle" means:

- (1) an all-terrain vehicle, as defined by Section 663.001, Transportation Code;
- (2) an off-highway motorcycle; ~~and~~
- (3) a recreational off-highway vehicle, as defined by Section 502.001, Transportation Code; and
- (4) any other motorized vehicle used for off-highway recreation on:
 - (A) public land over which the department has authority or on land purchased or leased by the department; or
 - (B) land acquired or developed under a grant made under Section 29.008 or any other grant program operated or administered by the department.

SECTION 2. The heading to Section 29.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 29.011. SAFETY APPAREL REQUIRED; SEAT BELTS.

SECTION 3. Section 29.011, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person may not operate, ride, or be carried on an off-highway vehicle on public property unless the person wears:

- (1) a safety helmet that complies with United States Department of Transportation standards; ~~and~~
- (2) eye protection; and
- (3) seat belts, if the vehicle is equipped with seat belts.

(c) This section does not apply to a motor vehicle that:

- (1) has at least four wheels and is registered by the Texas Department of Transportation for use on a public highway, unless the vehicle is an all-terrain vehicle as defined by Section 502.001, Transportation Code;
- (2) has four wheels and is equipped with bench or bucket seats and seat belts and includes a roll bar or roll cage construction to reduce the risk of injury to an occupant of the vehicle in case of the vehicle's rollover; or
- (3) is in the process of being loaded into or unloaded from a trailer or another vehicle used to transport the motor vehicle.

SECTION 4. Section 501.002(14), Transportation Code, is amended to read as follows:

(14) "Motor vehicle" means:

- (A) any motor driven or propelled vehicle required to be registered under the laws of this state;

(B) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;

(C) a house trailer;

(D) an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state;
or

(E) a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state, other than a motorcycle, motor-driven cycle, or moped designed for and used exclusively on a golf course.

SECTION 5. Section 502.001, Transportation Code, is amended by amending Subdivision (1) and adding Subdivision (19-a) to read as follows:

(1) "All-terrain vehicle" means a motor vehicle that is:

(A) equipped with a saddle~~[-bench, or bucket seats]~~ for the use of:

(i) the rider; and

(ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;

(B) designed to propel itself with three or more tires in contact with the ground;

(C) designed by the manufacturer for off-highway use; and

(D) not designed by the manufacturer primarily for farming or lawn care.

(19-a) "Recreational off-highway vehicle" means a motor vehicle that is:

(A) equipped with a non-straddle seat for the use of:

(i) the rider; and

(ii) a passenger, if the vehicle is designed by the manufacturer to transport a passenger;

(B) designed to propel itself with four or more tires in contact with the ground;

(C) designed by the manufacturer for off-highway use by the operator only; and

(D) not designed by the manufacturer primarily for farming or lawn care.

SECTION 6. Section 502.006, Transportation Code, is amended to read as follows:

Sec. 502.006. CERTAIN OFF-HIGHWAY ~~[ALL TERRAIN]~~ VEHICLES.

(a) Except as provided by Subsection (b), a person may not register an all-terrain vehicle or a recreational off-highway vehicle, with or without design alterations, for operation on a public highway.

(b) The state, a county, or a municipality may register an all-terrain vehicle or a recreational off-highway vehicle for operation on a public beach or highway to maintain public safety and welfare.

(c) A recreational off-highway vehicle registered as provided by Subsection (b) may be operated on a public or private beach in the same manner as a golf cart may be operated on a public or private beach under Section 502.0071. The operator must hold and have in the operator's possession a driver's license issued under Chapter 521 or a commercial driver's license issued under Chapter 522.

(d) ~~(e)~~ Section 502.172 does not apply to an all-terrain vehicle or a recreational off-highway vehicle.

SECTION 7. Section 547.001, Transportation Code, is amended by adding Subsection (2-a) to read as follows:

(2-a) "Golf cart" has the meaning assigned by Section 502.001.

SECTION 8. Section 547.002, Transportation Code, is amended to read as follows:

Sec. 547.002. APPLICABILITY. Unless a provision is specifically made applicable, this chapter and the rules of the department adopted under this chapter do not apply to:

- (1) an implement of husbandry;
- (2) road machinery;
- (3) a road roller;
- (4) a farm tractor;
- (5) a bicycle, a bicyclist, or bicycle equipment;
- (6) an electric bicycle, an electric bicyclist, or electric bicycle equipment; or
- (7) a golf cart that is operated only as authorized by ~~[not required to be registered under]~~ Section 551.403 ~~[502.284]~~.

SECTION 9. Subsection (d), Section 547.703, Transportation Code, is amended to read as follows:

(d) A golf cart that is operated at a speed of not more than 25 miles per hour ~~[as defined by Section 502.001]~~ is required to display a slow-moving-vehicle emblem ~~[only]~~ when it is operated on a public highway, as defined by Section 502.001, under Section 551.403 or 551.404 ~~[an arterial street]~~.

SECTION 10. Chapter 551, Transportation Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. GOLF CARTS

Sec. 551.401. DEFINITIONS. In this subchapter, "golf cart" and "public highway" have the meanings assigned by Section 502.001.

Sec. 551.402. REGISTRATION NOT AUTHORIZED. (a) The Texas Department of Transportation may not register a golf cart for operation on a public highway regardless of whether any alteration has been made to the golf cart.

(b) The department may issue license plates for a golf cart only as authorized by Section 504.510.

Sec. 551.403. LIMITED OPERATION. (a) An operator may operate a golf cart:

- (1) in a master planned community:
 - (A) that has in place a uniform set of restrictive covenants; and
 - (B) for which a county or municipality has approved a plat;
- (2) on a public or private beach; or
- (3) on a public highway for which the posted speed limit is not more than 35 miles per hour, if the golf cart is operated:
 - (A) during the daytime; and
 - (B) not more than two miles from the location where the golf cart is usually parked and for transportation to or from a golf course.

(b) The Texas Department of Transportation or a county or municipality may prohibit the operation of a golf cart on a public highway if the department or the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

Sec. 551.404. OPERATION IN MUNICIPALITIES. (a) In addition to the operation authorized by Section 551.403, the governing body of a municipality may allow an operator to operate a golf cart on all or part of a public highway that:

- (1) is in the corporate boundaries of the municipality; and
- (2) has a posted speed limit of not more than 35 miles per hour.

(b) A golf cart operated under Subsection (a) must have the following equipment:

- (1) headlamps;
- (2) taillamps;
- (3) reflectors;
- (4) parking brake; and
- (5) mirrors.

Sec. 551.405. CROSSING CERTAIN ROADWAYS. A golf cart may cross intersections, including a road or street that has a posted speed limit of more than 35 miles per hour.

SECTION 11. Subsection (a), Section 601.052, Transportation Code, is amended to read as follows:

(a) Section 601.051 does not apply to:

- (1) the operation of a motor vehicle that:
 - (A) is a former military vehicle or is at least 25 years old;
 - (B) is used only for exhibitions, club activities, parades, and other functions of public interest and not for regular transportation; and
 - (C) for which the owner files with the department an affidavit, signed by the owner, stating that the vehicle is a collector's item and used only as described by Paragraph (B);

(2) the operation of a golf cart that is operated only as authorized by ~~[not required to be registered under]~~ Section 551.403 ~~[502.284]~~; or

(3) a volunteer fire department for the operation of a motor vehicle the title of which is held in the name of a volunteer fire department.

SECTION 12. The following sections of the Transportation Code are repealed:

- (1) Section 502.0071; and
- (2) Subsection (e), Section 547.703.

SECTION 13. The heading to Subtitle G, Title 7, Transportation Code, is amended to read as follows:

SUBTITLE G. MOTORCYCLES AND OFF-HIGHWAY ~~[ALL TERRAIN]~~
VEHICLES

SECTION 14. The heading to Chapter 663, Transportation Code, is amended to read as follows:

CHAPTER 663. CERTAIN OFF-HIGHWAY ~~[ALL TERRAIN]~~ VEHICLES

SECTION 15. Section 663.001, Transportation Code, is amended by adding Subdivision (3) to read as follows:

(3) "Recreational off-highway vehicle" has the meaning assigned by Section 502.001.

SECTION 16. Subchapter A, Chapter 663, Transportation Code, is amended by adding Section 663.003 to read as follows:

Sec. 663.003. RECREATIONAL OFF-HIGHWAY VEHICLES. This chapter applies to the operator and operation of a recreational off-highway vehicle in the same manner as if the recreational off-highway vehicle were an all-terrain vehicle.

SECTION 17. Section 502.160, Transportation Code, is amended to read as follows:

Sec. 502.160. FEE: MOTORCYCLE OR MOPED. The fee for a registration year for registration of a motorcycle or moped is \$30.

SECTION 18. The heading to Section 502.161, Transportation Code, is amended to read as follows:

Sec. 502.161. FEE: VEHICLES THAT WEIGH 6,000 POUNDS OR LESS [~~PASSENGER CAR, MUNICIPAL BUS, PRIVATE BUS~~].

SECTION 19. Subsection (a), Section 502.161, Transportation Code, is amended to read as follows:

(a) The fee for a registration year for registration of a vehicle with a gross weight of [~~passenger car, a municipal bus, or a private bus that weighs~~] 6,000 pounds or less is \$50.75, unless otherwise provided in this chapter[-

~~(1) \$40.50 for a vehicle the model year of which is more than six years before the year in which the registration year begins;~~

~~(2) \$50.50 for a vehicle the model year of which is more than three years but is six years or less before the year in which the registration year begins; or~~

~~(3) \$58.50 for a vehicle the model year of which is three years or less before the year in which the registration year begins].~~

SECTION 20. The heading to Section 502.162, Transportation Code, is amended to read as follows:

Sec. 502.162. FEE: VEHICLES THAT WEIGH MORE THAN 6,000 POUNDS [~~COMMERCIAL MOTOR VEHICLE OR TRUCK TRACTOR~~].

SECTION 21. Subsection (a), Section 502.162, Transportation Code, is amended to read as follows:

(a) The fee for a registration year for registration of a vehicle with a gross weight of more than 6,000 pounds is [~~commercial motor vehicle or truck tractor is \$25 plus an amount determined according to the vehicle's gross weight and tire equipment,~~] as follows unless otherwise provided in this chapter:

<u>Weight Classification</u> <u>in pounds</u>	<u>Fee Schedule</u>
6,001-10,000	\$54.00
10,001-18,000	\$110.00
18,001-25,999	\$205.00
26,000-40,000	\$340.00
40,001-54,999	\$535.00
55,000-70,000	\$740.00
70,001-80,000	\$840.00
<u>in pounds</u>	<u>Fee for each 100 pounds or</u> <u>Equipment of 100 pounds</u>
[1-6,000	\$0.44
[6,001-8,000	0.495
[8,001-10,000	0.605
[10,001-17,000	0.715
[17,001-24,000	0.77
[24,001-31,000	0.88
[31,001 and over	0.99
	<u>Equipped with</u> <u>solid tires</u>
	50.55

SECTION 22. Section 502.165, Transportation Code, is amended to read as follows:

Sec. 502.165. FEE: ROAD TRACTOR. The fee for a registration year for registration of a road tractor is the fee prescribed by ~~[\$25 plus an amount determined according to the vehicle's]~~ weight as certified by a public weigher or a license and weight inspector of the Department of Public Safety under Section 502.161 or 502.162, as applicable.~~[, as follows:~~

[Gross weight in pounds	[Fee for each 100 pounds or fraction of 100 pounds
[1-4,000	\$0.275
[4,001-6,000	0.55
[6,001-8,000	0.66
[8,001-10,000	0.825
[10,001 and over	1.10]

SECTION 23. The heading to Section 502.166, Transportation Code, is amended to read as follows:

Sec. 502.166. FEE: TRAILER, TRAVEL TRAILER, OR SEMITRAILER.

SECTION 24. Section 502.166, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The fee for a registration year for registration of a trailer, travel trailer, or semitrailer with a ~~[is \$25 plus an amount determined according to the vehicle's]~~ gross weight of 6,000 pounds or less is \$45.00.

(a-1) The fee for a registration year for registration of a trailer, travel trailer, or semitrailer with a gross weight of more than 6,000 pounds is calculated by gross weight according to Section 502.162. ~~[and tire equipment, as follows:~~

[Gross weight in pounds	[Fee for each 100 pounds or fraction of 100 pounds [pneumatic tires	[Equipped with solid tires
[1-6,000	\$0.33	\$0.44
[6,001-8,000	0.44	0.55
[8,001-10,000	0.55	0.66
[10,001-17,000	0.66	0.88
[17,001 and over	0.715	0.99]

SECTION 25. Subsections (a), (b), and (c), Section 502.167, Transportation Code, are amended to read as follows:

(a) This section applies only to a truck-tractor or commercial motor vehicle with a gross weight ~~[manufacturer's rated carrying capacity]~~ of more than 10,000 pounds ~~[one ton]~~ that is used or is to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.

(b) The ~~[Notwithstanding Section 502.162, the]~~ fee for a registration year for registration of a truck-tractor or commercial motor vehicle is calculated by gross weight according to Section 502.162. ~~[\$40 plus an amount determined according to the combined gross weight of the vehicles, as follows:~~

[Combined gross weight in pounds	[Fee for each 100 pounds or fraction of 100 pounds
[18,000-36,000	\$0.60
[36,001-42,000	0.75
[42,001-62,000	0.90
[62,001 and over	1.00]

(c) The ~~[Notwithstanding Section 502.166, the]~~ fee for a registration year for registration of a semitrailer used in the manner described by Subsection (a), regardless of the date the semitrailer is registered, is:

(1) \$30, for a semitrailer being propelled by a power unit for which a permit under Section 623.011 has been issued; or

(2) \$15, for a semitrailer being propelled by a power unit for which a permit under Section 623.011 has not been issued.

SECTION 26. Section 502.168, Transportation Code, is amended to read as follows:

Sec. 502.168. FEE: MOTOR BUS. The fee for a registration year for registration of a motor bus is the fee prescribed by Section 502.161 or 502.162, as applicable. ~~[\$25 plus an amount determined according to the vehicle's gross weight, as follows:~~

[Gross weight	<u>[Fee for each 100 pounds</u>
[in pounds]	<u>or</u>
6,000	<u>fraction of 100 pounds</u>
6,001-8,000	<u>0.405</u>
8,001-10,000	<u>0.605</u>
10,001-17,000	<u>0.715</u>
17,001-24,000	<u>0.77</u>
24,001-31,000	<u>0.88</u>
31,001 and over	<u>0.99</u>

SECTION 27. Subsection (b), Section 502.1705, Transportation Code, is amended to read as follows:

(b) The department may use money collected under this section to provide for or enhance ~~perform one or more of the following~~:

- ~~(1) enhancing the department's automated registration and title system;~~
- ~~(2) providing for the automated on-site production of registration insignia; or~~
- ~~(3) providing for~~ automated on-premises and off-premises ~~self-service~~ registration; and
- (2) services related to the titling of vehicles.

SECTION 28. The heading to Section 502.184, Transportation Code, is amended to read as follows:

Sec. 502.184. REPLACEMENT OF ~~LOST, STOLEN, OR MUTILATED LICENSE PLATE OR~~ REGISTRATION INSIGNIA.

SECTION 29. Subsections (a), (b), (e), and (f), Section 502.184, Transportation Code, are amended to read as follows:

(a) The owner of a registered motor vehicle may obtain ~~from the department through the county assessor collector replacement license plates or~~ a replacement registration insignia by:

- (1) certifying [filing with the assessor collector a statement:
 - ~~[(A) showing that one or both of the license plates or the registration insignia to be replaced has been lost, stolen, or mutilated; and~~
 - ~~[(B) stating] that the replacement [no license plate or] registration insignia [to be replaced] will not be used on any other vehicle owned or operated by the person making the statement;~~
- (2) paying a fee of \$6 ~~[\$5]~~ plus the fees required by Section ~~[Sections 502.170(a) and] 502.1705(a) for [each set of replacement license plates or] each replacement registration insignia, except as provided by other law [Subsection (b), (e), or (f)]; and~~
- (3) returning ~~[to the assessor collector] each replaced [plate or] registration insignia in the owner's possession.~~

(b) No fee is required under this section if the replacement fee for a license plate has been paid under Section 502.1841 ~~for the replacement of lost, stolen, or mutilated specialized license plates issued under Sections 504.308 and 504.315(e) and (f)~~. ~~[The fee for replacement of certain specialized license plates is:~~

~~[License plates issued under:~~

~~[Section 504.411~~

~~[Section 504.409~~

(e) A county assessor-collector may not issue ~~[replacement license plates or]~~ a replacement registration insignia without complying with this section.

(f) A county assessor-collector shall retain \$2.50 of each fee collected under this section and shall report and send the remainder to the department ~~[as provided by Sections 502.102 and 502.105]~~.

SECTION 30. Subchapter D, Chapter 502, Transportation Code, is amended by adding Section 502.1841 to read as follows:

Sec. 502.1841. REPLACEMENT LICENSE PLATES. (a) The owner of a registered motor vehicle may obtain replacement license plates for the vehicle by:

(1) certifying that the replacement plates will not be used on any other vehicle owned or operated by the person making the statement;

(2) paying a fee of \$6 plus the fee required by Section 502.1705(a) for each set of replacement license plates, unless otherwise specified by law; and

(3) returning to the department each license plate in the owner's possession for which a replacement license plate is obtained.

(b) Replacement license plates may not be issued except as provided by this section.

(c) A county assessor-collector shall retain \$2.50 of each fee collected under this section and forward the remainder of the fee to the department.

(d) The fee required by this section applies to the issuance of license plates for a transferred used vehicle for which the registration and license plates were not transferred under Subchapter I.

SECTION 31. Subsection (d), Section 504.101, Transportation Code, is amended to read as follows:

(d) The department may not issue a replacement set of personalized license plates to the same person before the sixth anniversary of the date of issuance unless the applicant for issuance of replacement plates pays the ~~[an additional]~~ fee required by Section 502.1841 ~~[of \$30]~~.

SECTION 32. Section 504.501, Transportation Code, is amended to read as follows:

Sec. 504.501. CLASSIC MOTOR VEHICLES AND TRAVEL TRAILERS.

(a) The department shall issue specialty license plates for a motor vehicle that is at least 25 years old. The license plates must include the word "Classic" ~~[words "Classic Auto," "Classic Motorcycle," or "Classic Truck"]~~ or a similar designation, as appropriate.

(b) A person eligible for the license plates may instead use license plates that were issued by this state in the same year as the model year of the vehicle and are approved by the department if the plates are approved for the vehicle before January 1, 2011. The department may require the attachment of a registration insignia to the license plate in a manner that does not affect the display of information originally on the license plate.

(c) There is no ~~[The]~~ fee for issuance or approval of license plates under this section ~~[is \$15]~~.

SECTION 33. Subsection (c), Section 504.505, Transportation Code, is amended to read as follows:

(c) There is no ~~the initial~~ fee for issuance of the license plates ~~[is \$8]~~. The license plates may be renewed without payment of a fee.

SECTION 34. Subsection (b), Section 504.507, Transportation Code, is amended to read as follows:

(b) There is no ~~the~~ fee for issuance of the license plates ~~[is \$8]~~. The department shall:

(1) ~~also~~ collect any ~~additional~~ fee that a county imposes under this chapter for registration of a forestry vehicle; and

(2) send the fee to the appropriate county for disposition.

SECTION 35. Subsection (b), Section 504.508, Transportation Code, is amended to read as follows:

(b) There is no ~~the~~ fee for issuance of the license plates ~~[is \$15]~~.

SECTION 36. Section 504.509, Transportation Code, is amended to read as follows:

Sec. 504.509. VEHICLES CARRYING MOBILE AMATEUR RADIO EQUIPMENT. ~~[(a)]~~ The department shall issue specialty license plates for a person who holds an amateur radio station license issued by the Federal Communications Commission and who operates receiving and transmitting mobile amateur radio equipment. The license plates shall include the person's amateur call letters as assigned by the Federal Communications Commission. A person may register more than one vehicle equipped with mobile amateur radio equipment under this section, and the department shall issue license plates that include the same amateur call letters for each vehicle.

~~[(b) The fee for issuance of the license plates is \$2 for the first year and \$1 for each subsequent year.]~~

SECTION 37. Subsection (b), Section 504.510, Transportation Code, is amended to read as follows:

(b) The fee for issuance of the license plates is \$6 ~~[\$10]~~.

SECTION 38. Subsection (a), Section 504.801, Transportation Code, is amended to read as follows:

(a) The department may create new specialty license plates on its own initiative or on receipt of an application from a potential sponsor. A new specialty license plate created under this section must comply with each requirement of Section 504.702 unless the license is created by the department on its own initiative. The department may permit a specialty license plate created under this section to be personalized. The redesign of an existing specialty license plate at the request of a sponsor shall be treated like the issuance of a new specialty license plate, except that the department may require a nonrefundable design fee ~~[lower deposit amount to reflect the actual costs of redesigning the license plate]~~.

SECTION 39. The following provisions of the Transportation Code are repealed:

- (1) Section 502.007;
- (2) Subsection (b), Section 502.161;
- (3) Section 502.170;
- (4) Subsection (c), Section 502.1705;
- (5) Section 502.187;
- (6) Subsection (c), Section 502.201;
- (7) Section 502.453;
- (8) Subsection (b), Section 504.409; and

(9) Section 504.5011.

SECTION 40. Sections 1 through 16 of this Act take effect September 1, 2009. Sections 17 through 39 of this Act take effect September 1, 2011.

Representative Hilderbran moved to adopt the conference committee report on **HB 2553**.

The motion to adopt the conference committee report on **HB 2553** prevailed by (Record 1705): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Bonnen; Gonzales.

STATEMENT OF VOTE

When Record No. 1705 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzales

HR 2950 - ADOPTED (by Alvarado)

The following privileged resolution was laid before the house:

HR 2950

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2682** (the authority of municipalities to alter speed limits) to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in SECTION 1 of the bill, in Sections 545.356(b-1) and (b-2), Transportation Code, to read as follows:

(b-1) The ~~[Except as provided by Subsection (b-2), the]~~ governing body of a municipality, for a highway or a part of a highway in ~~[an urban district in]~~ the municipality that is not an officially designated or marked highway or road of the state highway system, ~~[is 35 feet or less in width, and along which vehicular parking is not prohibited on one or both sides of the highway,]~~ may declare a lower speed limit of not less than 25 miles per hour, if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe.

(b-2) Subsection (b-1) ~~applies only~~ ~~[does not apply]~~ to a two-lane, undivided highway or part of a highway ~~[that has four or more lanes used for vehicular travel].~~

Explanation: This change is necessary to clarify the type of highway to which a municipality's authority to alter the speed limit applies.

HR 2950 was adopted by (Record 1706): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

HB 2682 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Alvarado submitted the following conference committee report on **HB 2682**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2682** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
Carona
Watson
Davis
Ellis

Bohac
Guillen
McClendon
Merritt

On the part of the senate

On the part of the house

HB 2682, A bill to be entitled An Act relating to the authority of municipalities to alter speed limits.

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

SECTION 1. Section 545.356, Transportation Code, is amended by amending Subsections (b-1) and (b-2) and adding Subsection (d) to read as follows:

(b-1) The ~~[Except as provided by Subsection (b-2), the]~~ governing body of a municipality, for a highway or a part of a highway in ~~[an urban district in]~~ the municipality that is not an officially designated or marked highway or road of the state highway system, ~~[is 35 feet or less in width, and along which vehicular parking is not prohibited on one or both sides of the highway,]~~ may declare a lower speed limit of not less than 25 miles per hour, if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe.

(b-2) Subsection (b-1) applies only ~~[does not apply]~~ to a two-lane, undivided highway or part of a highway ~~[that has four or more lanes used for vehicular travel].~~

(d) The governing body of a municipality that declares a lower speed limit on a highway or part of a highway under Subsection (b-1), not later than February 1 of each year, shall publish on its Internet website and submit to the department a report that compares for each of the two previous calendar years:

(1) the number of traffic citations issued by peace officers of the municipality and the alleged speed of the vehicles, for speed limit violations on the highway or part of the highway;

(2) the number of warning citations issued by peace officers of the municipality on the highway or part of the highway; and

(3) the number of vehicular accidents that resulted in injury or death and were attributable to speed limit violations on the highway or part of the highway.

SECTION 2. The reporting and publication requirements prescribed by Section 545.356(d), Transportation Code, as added by this Act, apply only to a municipality that alters a speed limit under Section 545.356, Transportation Code, as amended by this Act, on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Alvarado moved to adopt the conference committee report on **HB 2682**.

The motion to adopt the conference committee report on **HB 2682** prevailed by (Record 1707): 141 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Solomons.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Callegari; Hernandez; Homer; Mallory Caraway; Miller, S.

STATEMENT OF VOTE

When Record No. 1707 was taken, my vote failed to register. I would have voted yes.

Homer

HB 2888 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Martinez submitted the following conference committee report on **HB 2888**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2888** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

West
Wentworth
Ellis
Gallegos

Martinez
Gonzalez Toureilles
Hardcastle
Swinford
Villarreal
On the part of the house

On the part of the senate

HB 2888, A bill to be entitled An Act relating to financial assistance administered by the Texas Department of Housing and Community Affairs.

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

SECTION 1. Chapter 2306, Government Code, is amended by adding Subchapter NN to read as follows:

SUBCHAPTER NN. VOLUNTEER INCOME TAX ASSISTANCE (VITA)
GRANT PROGRAM

Sec. 2306.1091. DEFINITION. In this subchapter, "volunteer income tax assistance program" means a program operated through a collaboration of the Internal Revenue Service and another entity under which taxpayers eligible for the Free File program receive free assistance in preparing federal income tax returns.

Sec. 2306.1092. ESTABLISHMENT OF VOLUNTEER INCOME TAX ASSISTANCE (VITA) GRANT PROGRAM. The department shall establish a volunteer income tax assistance grant program through which the department will award grants each year to support the implementation and operation of volunteer income tax assistance programs.

Sec. 2306.1093. ADMINISTRATION OF GRANT PROGRAM. In the year preceding the federal income tax filing season in which grant recipients will operate volunteer income tax assistance programs, the department shall issue a request for proposals to participate in the grant program, select and notify grant recipients, and, on or before November 1, distribute grant program money.

Sec. 2306.1094. ELIGIBILITY. To be eligible for a grant, an applicant must be located in this state and be:

(1) a nonprofit educational institution, a nonprofit faith-based or community-based organization, or any other nonprofit organization;

(2) a political subdivision of this state, including a county or municipality; or

(3) a regional or local coalition that has at least one lead organization that meets the criteria specified by Subdivision (1) or (2).

Sec. 2306.1095. PERFORMANCE AGREEMENT AND REPORT. Each grant recipient shall enter into an agreement with the department with respect to the use of the grant program money and submit a performance report to the department.

Sec. 2306.1096. GRANT PROGRAM FUNDING. (a) To the extent authorized by federal law and subject to the availability of money for this purpose, the department may distribute as grants authorized by this subchapter not more than 0.25 percent of the money received by this state during each state fiscal biennium under the federal Temporary Assistance for Needy Families block grant.

(b) The comptroller may transfer money received under the federal Temporary Assistance for Needy Families block grant from the Health and Human Services Commission and the Texas Workforce Commission to the department as necessary to implement this section.

(c) In addition to money described by Subsection (a), the department may distribute as grants authorized by this subchapter money received under the community services block grant program and other money that is appropriated for that purpose or designated by the department and otherwise available for that purpose.

Sec. 2306.1097. RULES. The board shall adopt rules as necessary to implement this subchapter, including rules providing for a grant application process and for appropriate restrictions on how the grant program money may be used.

SECTION 2. Section 2306.111, Government Code, is amended by adding Subsection (k) to read as follows:

(k) The department by rule shall:

(1) adopt policies to ensure that each housing development that receives financial assistance administered by the department, including financial assistance from the proceeds of bonds issued by the department:

(A) reserves a certain number of units in the development for individuals and families of very low income, to the extent that the reservation does not conflict with any requirements for the development under 26 U.S.C. Section 42; and

(B) except as otherwise permitted by law, accepts as tenants individuals and families receiving rental assistance under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), or some other form of rental assistance from a political subdivision of this state or from the state or federal government; and

(2) establish enforcement mechanisms with respect to those housing developments that refuse to admit individuals and families as described by Subdivision (1)(B).

SECTION 3. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. (a) The change in law made by this Act in adding Section 2306.111(k), Government Code, applies only to an application for financial assistance that is submitted by a housing development to the Texas Department of Housing and Community Affairs on or after January 1, 2010. An application for financial assistance that is submitted by a housing development to the department before January 1, 2010, is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

(b) Not later than December 1, 2009, the Texas Department of Housing and Community Affairs shall adopt the rules required by Section 2306.111(k), Government Code, as added by this Act.

SECTION 5. This Act takes effect September 1, 2009.

Representative Martinez moved to adopt the conference committee report on **HB 2888**.

The motion to adopt the conference committee report on **HB 2888** prevailed by (Record 1708): 83 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Bolton; Burnam; Castro; Chavez; Cohen; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Jackson; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Naishtat; Oliveira; Olivo; Ortiz;

Otto; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Strama; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Isett; Jones; Keffer; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Madden; McCall; Merritt; Miller, D.; Miller, S.; Morrison; Orr; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Solomons; Taylor; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Coleman; Moody; Pitts; Veasey.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1708. I intended to vote no.

Berman

I was shown voting no on Record No. 1708. I intended to vote yes.

Legler

When Record No. 1708 was taken, I was in the house but away from my desk. I would have voted yes.

Moody

HB 3452 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gattis submitted the following conference committee report on **HB 3452**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3452** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ogden

Gattis

Davis

Geren

Estes

Aycock

Huffman

Vaught

Van de Putte

Veasey

On the part of the senate

On the part of the house

HB 3452, A bill to be entitled An Act relating to the establishment of the Texas Armed Services Scholarship.

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

SECTION 1. Chapter 61, Education Code, is amended by adding Subchapter FF to read as follows:

SUBCHAPTER FF. TEXAS ARMED SERVICES SCHOLARSHIP PROGRAM

Sec. 61.9771. SCHOLARSHIP PROGRAM; SCHOLARSHIP AMOUNT.

(a) The board shall establish and administer, in accordance with this subchapter and board rules, the Texas Armed Services Scholarship Program under which the board provides an annual conditional scholarship to a student who meets the eligibility criteria prescribed by Section 61.9772 and is appointed to receive a scholarship.

(b) The amount of a scholarship under this subchapter in an academic year is the lesser of:

(1) \$15,000; or

(2) the amount available for each scholarship from appropriations that may be used for scholarships under this subchapter for that academic year.

Sec. 61.9772. ELIGIBILITY; NOMINATION AND SELECTION. (a) To receive an initial scholarship under this subchapter, a student must:

(1) be enrolled as a freshman in a public or private institution of higher education in this state;

(2) enroll in and be a member in good standing of a Reserve Officers' Training Corps (ROTC) program while enrolled in a public or private institution of higher education in this state;

(3) be appointed to receive a scholarship by the governor, the lieutenant governor, a state senator, or a state representative; and

(4) enter into an agreement with the board under Section 61.9773.

(b) In each year, the governor and the lieutenant governor may each appoint two students and each state senator and each state representative may appoint one student to receive an initial scholarship under this subchapter.

(c) For a student to continue to receive a scholarship awarded under this subchapter, the student must maintain satisfactory academic progress as determined by the institution in which the student is enrolled.

Sec. 61.9773. AGREEMENT REQUIREMENTS. (a) To receive a scholarship under this subchapter, a student must enter into an agreement with the board as provided by this section. The agreement must require the student to:

(1) complete four years of ROTC training;

(2) graduate not later than five years after the date the student first enrolls in a public or private institution of higher education in this state;

(3) after graduation, enter into:

(A) a four-year commitment to be a member of the Texas Army or Air Force National Guard; or

(B) a contract to serve as a commissioned officer in any branch of the armed services of the United States;

(4) meet the physical examination requirements and all other prescreening requirements of the Texas Army or Air Force National Guard or the branch of the armed services with which the student enters into a contract; and

(5) agree to repay the scholarship if the student:

(A) fails to maintain satisfactory academic progress;

(B) withdraws from the scholarship program; or

(C) fails to fulfill a commitment or contract described by

Subdivision (3).

(b) The board shall adopt rules to exempt a student from the repayment of a scholarship under an agreement entered into under this section if the student is unable to meet the obligations of the agreement solely as a result of physical inability.

Sec. 61.9774. RULES. (a) The board shall adopt rules as necessary for the administration of this subchapter, including rules regarding the eligibility criteria and the selection of scholarship recipients.

(b) The board by rule shall provide that any amount paid to a student by a branch of the armed services of the United States during an academic year for which the student receives a scholarship under this subchapter because the student is under a contract with that branch shall be deducted from the amount of the scholarship awarded to the student for that academic year.

Sec. 61.9775. LIMITATION ON SCHOLARSHIP. A person may not receive a scholarship under this subchapter after earning a cumulative total of 150 credit hours or after being awarded a baccalaureate degree, whichever occurs first.

Sec. 61.9776. FUNDING. The board shall administer this subchapter using available appropriations and gifts, grants, and donations made for the purposes of this subchapter.

SECTION 2. The Texas Higher Education Coordinating Board shall award scholarships under Subchapter FF, Chapter 61, Education Code, as added by this Act, beginning with the 2010-2011 academic year. The coordinating board shall adopt the rules required by that subchapter as soon as practicable after this Act takes effect.

SECTION 3. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 4. This Act takes effect September 1, 2009.

Representative Gattis moved to adopt the conference committee report on **HB 3452**.

The motion to adopt the conference committee report on **HB 3452** prevailed by (Record 1709): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra;

Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Laubenberg; Oliveira.

HB 3479 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the following conference committee report on **HB 3479**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3479** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Uresti	Gallego
Davis	Coleman
Eltife	Christian
Seliger	Moody
	Miklos

On the part of the senate On the part of the house

HB 3479, A bill to be entitled An Act relating to filing of instruments conveying real property in certain counties.

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

SECTION 1. Chapter 11, Property Code, is amended by adding Section 11.0041 to read as follows:

Sec. 11.0041. REVIEW OF CERTAIN INSTRUMENTS IN CERTAIN COUNTIES. (a) This section applies only to the county clerk of a county:

(1) that:

(A) is located on the international border; and

(B) has a population of less than 15,000;

(2) in which a colonia self-help center established under Section 2306.582, Government Code, is located; or

(3) that is served by a colonia self-help center described by Subdivision (2) in another county.

(b) Before accepting an instrument conveying real property for filing, the county clerk may send the instrument to the county attorney for review under this section. Not later than five business days after the date the county attorney receives an instrument under this subsection, the county attorney shall:

(1) review the instrument to determine whether the platting requirements prescribed by Sections 232.023, 232.025, and 232.031, Local Government Code, have been satisfied; and

(2) return the instrument to the county clerk with a statement of the county attorney's determination under Subdivision (1).

(c) Notwithstanding Section 11.004(a), the county clerk shall immediately notify the party that presented the instrument for recording that:

(1) the clerk is referring the instrument to the county attorney for review;

(2) the instrument will not be immediately recorded; and

(3) the clerk is not required to file an instrument the county attorney determines the clerk is not required to file.

SECTION 2. Section 209.010, Property Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (b-2) to read as follows:

(a) A property owners' association that conducts a foreclosure sale of an owner's lot must send to the lot owner and to each lienholder of record, not later than the 30th day after the date of the foreclosure sale, a written notice stating the date and time the sale occurred and informing the lot owner and each lienholder of record of the [owner's] right of the lot owner and lienholder to redeem the property under Section 209.011.

(b) The notice must be sent by certified mail, return receipt requested, to:

(1) the lot owner's last known mailing address, as reflected in the records of the property owners' association;

(2) the address of each holder of a lien on the property subject to foreclosure evidenced by the most recent deed of trust filed of record in the real property records of the county in which the property is located; and

(3) the address of each transferee or assignee of a deed of trust described by Subdivision (2) who has provided notice to a property owners' association of such assignment or transfer. Notice provided by a transferee or assignee to a property owners' association shall be in writing, shall contain the mailing address of the transferee or assignee, and shall be mailed by certified mail, return receipt requested, or United States mail with signature confirmation to the property owners' association according to the mailing address of the property owners' association pursuant to the most recent management certificate filed of record pursuant to Section 209.004.

(b-1) If a recorded instrument does not include an address for the lienholder, the association does not have a duty to notify the lienholder as provided by this section.

(b-2) For purposes of this section, the lot owner is deemed to have given approval for the association to notify the lienholder.

SECTION 3. Subsections (b), (d), (e), (f), (g), (h), (j), (k), (m), (n), and (p), Section 209.011, Property Code, are amended to read as follows:

(b) The owner of property in a residential subdivision or a lienholder of record may redeem the property from any purchaser at a sale foreclosing a property owners' association's assessment lien not later than the 180th day after the date the association mails written notice of the sale to the owner and the lienholder under Section 209.010. A lienholder of record may not redeem the property as provided herein before 90 days after the date the association mails written notice of the sale to the lot owner and the lienholder under Section 209.010, and only if the lot owner has not previously redeemed.

(d) To redeem property purchased by the property owners' association at the foreclosure sale, the lot owner or lienholder must pay to the association:

(1) all amounts due the association at the time of the foreclosure sale;

(2) interest from the date of the foreclosure sale to the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;

(3) costs incurred by the association in foreclosing the lien and conveying the property to the [~~redeeming~~] lot owner, including reasonable attorney's fees;

(4) any assessment levied against the property by the association after the date of the foreclosure sale;

(5) any reasonable cost incurred by the association, including mortgage payments and costs of repair, maintenance, and leasing of the property; and

(6) the purchase price paid by the association at the foreclosure sale less any amounts due the association under Subdivision (1) that were satisfied out of foreclosure sale proceeds.

(e) To redeem property purchased at the foreclosure sale by a person other than the property owners' association, the lot owner or lienholder:

(1) must pay to the association:

(A) all amounts due the association at the time of the foreclosure sale less the foreclosure sales price received by the association from the purchaser;

(B) interest from the date of the foreclosure sale through the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;

(C) costs incurred by the association in foreclosing the lien and conveying the property to the redeeming lot owner, including reasonable attorney's fees;

(D) any unpaid assessments levied against the property by the association after the date of the foreclosure sale; and

(E) taxable costs incurred in a proceeding brought under Subsection (a); and

(2) must pay to the person who purchased the property at the foreclosure sale:

(A) any assessments levied against the property by the association after the date of the foreclosure sale and paid by the purchaser;

(B) the purchase price paid by the purchaser at the foreclosure sale;

(C) the amount of the deed recording fee;

(D) the amount paid by the purchaser as ad valorem taxes, penalties, and interest on the property after the date of the foreclosure sale; and

(E) taxable costs incurred in a proceeding brought under Subsection (a).

(f) If a lot owner or lienholder redeems the property under this section, the purchaser of the property at foreclosure shall immediately execute and deliver to the redeeming party [~~owner~~] a deed transferring the property to the [~~redeeming~~] lot owner. If a purchaser fails to comply with this section, the lot owner or lienholder may file an [~~a cause of~~] action against the purchaser and may recover reasonable attorney's fees from the purchaser if the lot owner or the lienholder is the prevailing party in the action.

(g) If, before the expiration of the redemption period, the redeeming lot owner or lienholder fails to record the deed from the foreclosing purchaser or fails to record an affidavit stating that the lot owner or lienholder has redeemed the property, the lot owner's or lienholder's right of redemption as against a bona fide purchaser or lender for value expires after the redemption period.

(h) The purchaser of the property at the foreclosure sale or a person to whom the person who purchased the property at the foreclosure sale transferred the property may presume conclusively that the lot owner or a lienholder did not redeem the property unless the lot owner or a lienholder files in the real property records of the county in which the property is located:

- (1) a deed from the purchaser of the property at the foreclosure sale; or
- (2) an affidavit that:

(A) states that the property [~~lot owner~~] has been redeemed [~~the property~~]; [~~and~~]

(B) contains a legal description of the property; and

(C) includes the name and mailing address of the person who redeemed the property.

(j) If a person other than the property owners' association is the purchaser at the foreclosure sale, before executing a deed transferring the property to the [~~redeeming~~] lot owner, the purchaser shall obtain an affidavit from the association or its authorized agent stating that all amounts owed the association under Subsection (e) have been paid. The association shall provide the purchaser with the affidavit not later than the 10th day after the date the association receives all amounts owed to the association under Subsection (e). Failure of a purchaser to comply with this subsection does not affect the validity of a redemption [~~by a redeeming lot owner~~].

(k) Property that is redeemed remains subject to all liens and encumbrances on the property before foreclosure. Any lease entered into by the purchaser of property at a sale foreclosing an assessment lien of a property owners' association is subject to the right of redemption provided by this section and the lot owner's right to reoccupy the property immediately after [~~the~~] redemption.

(m) If a lot owner or lienholder sends by certified mail, return receipt requested, a written request to redeem the property on or before the last day of the redemption period, the lot owner's or lienholder's right of redemption is extended until the 10th day after the date the association and any third party foreclosure purchaser provides written notice to the redeeming party [~~lot owner~~] of the amounts that must be paid to redeem the property.

(n) After the redemption period and any extended redemption period provided by Subsection (m) expires without a redemption of the property, the association or third party foreclosure purchaser shall record an affidavit in the real property records of the county in which the property is located stating that the lot owner or a lienholder did not redeem the property during the redemption period or any extended redemption period.

(p) The rights of a lot owner and a lienholder under this section also apply if the sale of the lot owner's property is conducted by a constable or sheriff as provided by a judgment obtained by the property owners' association.

SECTION 4. The change in law made in Section 11.0041, Property Code, as added by this Act, applies only to an instrument delivered to a county clerk on or after the effective date of this Act. An instrument delivered to a county clerk

before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. Sections 209.010 and 209.011, Property Code, as amended by this Act, apply only to a foreclosure sale conducted on or after the effective date of this Act. A foreclosure sale conducted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2009.

Representative Gallego moved to adopt the conference committee report on **HB 3479**.

The motion to adopt the conference committee report on **HB 3479** prevailed by (Record 1710): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Bolton; Edwards; Oliveira; Ritter.

HR 3062 - ADOPTED (by Hochberg)

The following privileged resolution was laid before the house:

HR 3062

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 3646** (public school finance and programs) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either version of the bill by adding the following new SECTION to the bill:

SECTION 22. Section 29.190, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (e) to read as follows:

(a) A student is entitled to a subsidy under this section if:

(1) the student:

(A) ~~[(+)]~~ successfully completes the career and technology program of a school district in which the student receives training and instruction for employment in a current or emerging high-demand, high-wage, high-skill [certain trade or] occupation, as determined under Subsection (e); or

(B) is enrolled in a special education program under Subchapter A;

(2) the student passes a certification examination to qualify for a license or certificate for the [trade or] occupation; and

(3) the student submits to the district a written application in the form, time, and manner required by the district for the district to subsidize the cost of an examination described by Subdivision (2) [demonstrates financial need].

(c) On approval by the commissioner, the agency shall pay each school district [eligible student] an amount equal to the cost paid by the district or student for the certification examination. To obtain reimbursement for a subsidy paid under this section, a district [student] must:

(1) pay the fee for the examination or pay the student the amount of the fee paid by the student for the examination; and

(2) submit to the commissioner a written application on a form prescribed by the commissioner stating [demonstrating financial need and] the amount of the fee paid under Subdivision (1) [by the student] for the certification examination.

(e) The commissioner, in collaboration with the commissioner of higher education and the Texas Workforce Commission, shall determine as necessary the occupations that qualify for purposes of this section.

EXPLANATION: This addition is necessary to provide reimbursement to school districts for subsidies provided by districts to students who pass certification examinations for certain occupations.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either version of the bill by adding the following new SECTION to the bill:

SECTION 90. (a) Section 5, Chapter 259 (**HB 323**), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

(b) Section 547.701(e), Transportation Code, as added by Chapter 259 (**HB 323**), Acts of the 80th Legislature, Regular Session, 2007, takes effect September 1, 2009.

(c) Section 547.701, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) A school district is required to comply with Subsection (e) only to the extent that the Texas Education Agency pays or commits to pay the district for expenses incurred in complying with that subsection. The Texas Education Agency may make grants of appropriated money for the purpose of paying school districts under this subsection.

EXPLANATION: This addition is necessary to address the applicability of requirements regarding seat belts on a school bus and the provision of funding to meet those requirements.

(3) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter not included in either version of the bill by adding the following new SECTION to the bill:

SECTION 96. (a) The commissioner of education shall determine the percentage of entitlement in the foundation school program or other program that represents the use of education stabilization funds received under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5). In order to receive that percentage of total funds available to a school district or open-enrollment charter school under the foundation school program or other program, a district or school may be required to apply to the commissioner using an application developed by the commissioner. The commissioner may require an applicant to make assurances as to the use and monitoring of funds applied for or other requirements, consistent with the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

(b) If any of the funds received by the state under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) that were appropriated for the purpose of funding the foundation school program or other program are determined to be unavailable temporarily or permanently for that purpose, the commissioner shall reduce the total amount of funds to which a district or school is entitled under Chapters 41 and 42, Education Code, or other programs proportional to the percentage determined under Subsection (a) of this section. A reduction in funding under this subsection does not increase the entitlement of a district or school in any subsequent year.

(c) This section applies to funding provided under Chapters 41 and 42, Education Code, as amended by this Act, for the 2009-2010 and 2010-2011 school years. A decision by the commissioner under this section is final and may not be appealed.

EXPLANATION: This addition is necessary to provide for compliance with any requirements associated with the use of funds received by the state under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and to permit the commissioner of education to make funding modifications if necessary as a result of federal determinations regarding use of those funds.

HR 3062 was adopted by (Record 1711): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

HB 3646 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the following conference committee report on **HB 3646**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3646** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro	Hochberg
Duncan	Allen
Ogden	Aycock
Patrick	Eissler
Van de Putte	Patrick
On the part of the senate	On the part of the house

HB 3646, A bill to be entitled An Act relating to public school finance and programs.

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

SECTION 1. Section 1.001(b), Education Code, is amended to read as follows:

(b) Except as provided by Chapter 18, Chapter 19, Subchapter A of [§] Chapter 29, [~~or~~] Subchapter E of [§] Chapter 30, or Chapter 30A, this code does not apply to students, facilities, or programs under the jurisdiction of the Department of Aging and Disability Services, the Department of State Health Services, the Health and Human Services Commission, the Texas Youth Commission, the Texas Department of Criminal Justice, a Job Corps program operated by or under contract with the United States Department of Labor, or any juvenile probation agency.

SECTION 2. Section 7.024(a), Education Code, is amended to read as follows:

(a) The investment capital fund consists of money appropriated for purposes of [~~transferred to~~] the fund [~~as provided by Section 42.152(d)~~]. The agency shall administer the fund. The purposes of this fund are to assist eligible public schools to implement practices and procedures consistent with deregulation and school restructuring in order to improve student achievement and to help schools identify and train parents and community leaders who will hold the school and the school district accountable for achieving high academic standards.

SECTION 3. Section 8.051(d), Education Code, is amended to read as follows:

(d) Each regional education service center shall maintain core services for purchase by school districts and campuses. The core services are:

- (1) training and assistance in:
 - (A) teaching each subject area assessed under Section 39.023; and
 - (B) providing instruction in personal financial literacy as required under Section 28.0021;
- (2) training and assistance in providing each program that qualifies for a funding allotment under Section 42.151, 42.152, 42.153, or 42.156;
- (3) assistance specifically designed for a school district rated academically unacceptable under Section 39.072(a) or a campus whose performance is considered unacceptable based on the indicators adopted under Section 39.051;
- (4) training and assistance to teachers, administrators, members of district boards of trustees, and members of site-based decision-making committees;
- (5) assistance specifically designed for a school district that is considered out of compliance with state or federal special education requirements, based on the agency's most recent compliance review of the district's special education programs; and
- (6) assistance in complying with state laws and rules.

SECTION 4. Section 11.168, Education Code, is amended to read as follows:

Sec. 11.168. USE OF DISTRICT RESOURCES PROHIBITED FOR CERTAIN PURPOSES. Except as provided by Section 45.109 (a-1) and (a-2), the ~~[The]~~ board of trustees of a school district may not enter into an agreement authorizing the use of school district employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district.

SECTION 5. Section 12.106, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the greater of:

(1) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of \$120 for each student in weighted average daily attendance; or

(2) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 ~~as~~ if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue [~~"LR"~~] for purposes of Section 42.2516 ~~[42.302]~~.

(a-1) In determining funding for an open-enrollment charter school under Subsection (a), adjustments under Sections 42.102, 42.103, 42.104, and 42.105 ~~[and the district enrichment tax rate ("DTR") under Section 42.302]~~ are based on the average adjustment ~~[and average district enrichment tax rate]~~ for the state.

(a-2) In addition to the funding provided by Subsection (a), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under Section 42.302 based on the state average tax effort.

SECTION 6. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1331 to read as follows:

Sec. 12.1331. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF. (a) This section applies to a charter holder that on January 1, 2009, operated an open-enrollment charter school.

(b) Beginning with the 2009-2010 school year, each charter holder shall increase the monthly salary of each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, and full-time school nurse employed by the charter holder at an open-enrollment charter school by the greater of:

(1) \$80; or

(2) the maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the charter holder for social security coverage for the specified employees or by the charter holder on behalf of the specified employees under Section 825.405, Government Code, may be provided using an amount equal to the product of \$60 multiplied by the number of students in weighted average daily attendance in the school during the 2009-2010 school year.

(c) A payment under Subsection (b) is in addition to wages the charter holder would otherwise pay the employee during the school year.

SECTION 7. Section 19.007, Education Code, is amended by adding Subsection (g) to read as follows:

(g) In addition to other amounts received by the district under this section, the district is entitled to state aid in the amount necessary to fund the salary increases required by Section 19.009(d-2).

SECTION 8. Section 19.009, Education Code, is amended by adding Subsections (d-2) and (d-3) to read as follows:

(d-2) Beginning with the 2009-2010 school year, the district shall increase the monthly salary of each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor certified under Subchapter B, Chapter 21, and full-time school nurse employed by the district by the greater of:

(1) \$80; or

(2) the maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the district for social security coverage for the specified employees or by the district on behalf of the specified employees under Section 825.405, Government Code, may be provided using an amount equal to the product of \$60 multiplied by the number of students in weighted average daily attendance in the district during the 2009-2010 school year.

(d-2) A payment under Subsection (d-1) is in addition to salary the district would otherwise pay the employees during the school year.

SECTION 9. Section 21.402, Education Code, is amended by amending Subsections (a), (d), and (g) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(a) Except as provided by Subsection (d), (e), or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student, including funds provided under Section 42.2516 ~~[42.2516(b)(1)(B), but not funds provided under Section 42.2516(b)(1)(A), (b)(1)(C), (b)(2), or (b)(3)]~~, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001.

(c-1) Notwithstanding Subsection (a), for the 2009-2010 and 2010-2011 school years, each school district shall increase the monthly salary of each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor certified under Subchapter B, and full-time school nurse by the greater of:

(1) \$80; or

(2) the maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the district for social security coverage for the specified employees or by the district on behalf of the specified employees under Section 825.405, Government Code, may be provided using an amount equal to the product of \$60 multiplied by the number of students in weighted average daily attendance in the school during the 2009-2010 school year.

(c-2) An increase in salary under Subsection (c-1) does not include:

(1) any amount an employee would have received for the 2009-2010 or 2010-2011 school year, as applicable, under the district's salary schedule for the 2008-2009 school year, if that schedule had been in effect for the 2009-2010 or 2010-2011 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2009-2010 or 2010-2011 school year; or

(2) any part of the salary to which an employee is entitled under Subsection (a).

(c-3) Subsections (c-1) and (c-2) and this subsection expire September 1, 2011.

(d) A classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse employed by a school district in the 2010-2011 ~~[2006-2007]~~ school year is, as long as the employee is employed by the same district, entitled to a salary that is at least equal to the salary the employee received for the 2010-2011 ~~[2006-2007]~~ school year.

(g) The commissioner may adopt rules to govern the application of this section, including rules that:

(1) require the payment of a minimum salary under this section to a person employed in more than one capacity for which a minimum salary is provided and whose combined employment in those capacities constitutes full-time employment; and

(2) specify the credentials a person must hold to be considered a speech pathologist or school nurse under this section.

SECTION 10. Section 21.415(a), Education Code, is amended to read as follows:

(a) A school district shall provide in employment contracts that qualifying employees may receive an incentive payment under an awards program established under Subchapter ~~N~~ O if the district participates in the program.

SECTION 11. Sections 21.703(a) and (d), Education Code, are amended to read as follows:

(a) Each state fiscal year, the commissioner shall deposit an amount determined by the General Appropriations Act ~~[the sum of \$1,000 multiplied by the number of classroom teachers in this state]~~ to the credit of the educator excellence fund in the general revenue fund. Each state fiscal year, the agency shall use:

~~[(1) not more than \$100 million of the funds in the educator excellence fund to provide grant awards under the awards for student achievement program established under Subchapter N; and~~

~~[(2) any remaining]~~ funds in the educator excellence fund to provide a qualifying school district a grant in an amount determined by:

(1) ~~[(A)]~~ dividing the amount of ~~[remaining]~~ money available for distribution in the educator excellence fund by the total number of students in average daily attendance in qualifying districts for that fiscal year; and

(2) ~~[(B)]~~ multiplying the amount determined under Subdivision (1) ~~[Paragraph (A)]~~ by the number of students in average daily attendance in the district.

(d) Notwithstanding Subsection (a) ~~[or (b)]~~, the agency may use funds in the educator excellence fund as necessary to conduct or contract with another entity to conduct the evaluation required under Section 21.706. This subsection expires June 1, 2011.

SECTION 12. Section 21.704, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A local awards plan must provide for teachers and principals eligible to receive awards under the plan to be notified of the specific criteria and any formulas on which the awards will be based before the beginning of the period on which the awards will be based.

SECTION 13. Section 21.705, Education Code, is amended to read as follows:

Sec. 21.705. AWARD PAYMENTS. A school district must use at least 60 percent of grant funds awarded to the district under this subchapter to directly award classroom teachers and principals who effectively improve student achievement as determined by meaningful, objective measures. The remaining funds must be used only to:

(1) provide teacher induction and mentoring support, including stipends to effective mentors or teacher coaches;

(2) provide stipends to classroom teachers who are certified in a subject that is designated by the commissioner as commonly experiencing a critical shortage of teachers;

(3) provide stipends to classroom teachers who are certified under Subchapter B in the main subject area in which they teach;

(4) provide stipends to recruit and retain classroom teachers and principals with proven records of success for improving student performance who are assigned to campuses at which the district has experienced difficulty assigning or retaining teachers;

(5) ~~[provide stipends to classroom teachers who hold postgraduate degrees;~~

~~[(6) provide awards to principals who effectively increase student performance as determined by objective measures;~~

~~[(7) provide awards to other campus employees who demonstrate excellence; ~~or~~]~~

~~(6) [(8)] implement the components of a Teacher Advancement Program (TAP), including:~~

~~(A) an instructionally focused accountability system; and~~

~~(B) the adjustment of teaching schedules to permit ongoing applied professional growth; or~~

~~(7) provide funding for previously developed incentive programs.~~

SECTION 14. Section 21.706(a), Education Code, is amended to read as follows:

(a) Using funds from the educator excellence fund created under Section 21.703, the agency shall conduct or contract with another entity to conduct a comprehensive evaluation of the ~~[awards for student achievement program established under Subchapter N and the educator excellence awards]~~ program ~~[established under this subchapter]~~. The evaluation must include:

(1) a descriptive analysis of the design and implementation of the ~~[awards for student achievement program and the educator excellence awards]~~ program at participating campuses or school districts, including detailed descriptions of the models and approaches used by the campuses or districts in distributing incentive awards to classroom teachers;

(2) detailed information regarding the distribution of incentive awards to classroom teachers under the ~~[awards for student achievement program and the educator excellence awards]~~ program, including the measurements used by the campuses or districts in determining the amounts of incentive awards to distribute to classroom teachers;

(3) a comprehensive, quantitative analysis of the impact of the ~~[awards for student achievement program and the educator excellence awards]~~ program at participating campuses or districts, including the impact of the various incentive award distribution models used by the campuses or districts on key outcomes in the ~~program [programs]~~; and

(4) a summary of the approaches used by participating campuses or districts in distributing grant funds that are not specifically designated for distribution as incentive awards for classroom teachers and an assessment of whether those funds are used effectively by the participating campuses or districts.

SECTION 15. Section 28.009, Education Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) A school district is not required to pay a student's tuition or other associated costs for taking a course under this section. This subsection expires September 1, 2011.

SECTION 16. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.018 to read as follows:

Sec. 29.018. SPECIAL EDUCATION GRANT. (a) From funds appropriated for the purposes of this section, federal funds, or any other funds available, the commissioner shall make grants available to school districts to assist districts in covering the cost of educating students with disabilities.

(b) A school district is eligible to apply for a grant under this section if:

(1) the district does not receive sufficient funds, including state funds provided under Section 42.151 and federal funds, for a student with disabilities to pay for the special education services provided to the student; or

(2) the district does not receive sufficient funds, including state funds provided under Section 42.151 and federal funds, for all students with disabilities in the district to pay for the special education services provided to the students.

(c) A school district that applies for a grant under this section must provide the commissioner with a report comparing the state and federal funds received by the district for students with disabilities and the expenses incurred by the district in providing special education services to students with disabilities.

(d) Expenses that may be included by a school district in applying for a grant under this section include the cost of training personnel to provide special education services to a student with disabilities.

(e) A school district that receives a grant under this section must educate students with disabilities in the least restrictive environment that is appropriate to meet the student's educational needs.

(f) The commissioner shall adopt rules as necessary to administer this section.

SECTION 17. Section 29.082, Education Code, is amended by adding Subsection (h) to read as follows:

(h) The commissioner shall give priority to applications for extended year programs to districts with high concentrations of educationally disadvantaged students.

SECTION 18. Section 29.0822, Education Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (e) to read as follows:

(a) Notwithstanding Section 25.081 or 25.082, a school district may apply to the commissioner to provide a flexible school day program for students [~~in grades nine through 12~~] who:

(1) have dropped out of school or are at risk of dropping out of school as defined by Section 29.081; ~~or~~

(2) attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; or

(3) as a result of attendance requirements under Section 25.092, will be denied credit for one or more classes in which the students have been enrolled.

(c) Except in the case of a course designed for a student described by Subsection (a)(3), a [A] course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days under Section 25.081 and the required length of school day under Section 25.082.

(d) The commissioner may adopt rules for the administration of this section, including rules establishing application requirements. The commissioner shall calculate average daily attendance for students served under this section. The commissioner shall allow accumulations of hours of instruction for students whose schedule would not otherwise allow full state funding. Funding under this subsection shall be determined based on the number of instructional days in the school district calendar and a seven-hour school day, but attendance may be cumulated over a school year, including any summer or vacation session. The

attendance of students who accumulate less than the number of attendance hours required under this subsection shall be proportionately reduced for funding purposes. The commissioner may:

(1) set maximum funding amounts for an individual course under this section; and

(2) limit funding for the attendance of a student described by Subsection (a)(3) in a course under this section to funding only for the attendance necessary for the student to earn class credit that, as a result of attendance requirements under Section 25.092, the student would not otherwise be able to receive without retaking the class.

(e) A student described by Subsection (a)(3) may enroll in a course in a program under this section offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that, as a result of attendance requirements under Section 25.092, the student would not otherwise be able to receive without retaking the class.

SECTION 19. Section 29.085, Education Code, is amended by adding Subsection (e) to read as follows:

(e) From funds appropriated for the purpose, the commissioner shall distribute funds for programs under this section. In distributing those funds, the commissioner shall give preference to school districts that received funds for a program under this section for the preceding school year and then to the districts that have the highest concentration of students who are pregnant or who are parents. To receive funds for a program under this section, a school district must apply to the commissioner. A program established under this section is required only in school districts in which the program is financed by funds distributed under this subsection and any other funds available for the program.

SECTION 20. Section 29.097(g), Education Code, is amended to read as follows:

(g) For purposes of Subsection (f)(2), a school district is encouraged to use funds allocated under Section 42.160 [42.2516(b)(3)].

SECTION 21. Section 29.098(h), Education Code, is amended to read as follows:

(h) For purposes of Subsection (g)(2), a school district is encouraged to use funds allocated under Section 42.160 [42.2516(b)(3)].

SECTION 22. Section 29.190, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (e) to read as follows:

(a) A student is entitled to a subsidy under this section if:

(1) the student:

(A) [A] successfully completes the career and technology program of a school district in which the student receives training and instruction for employment in a current or emerging high-demand, high-wage, high-skill [certain trade or] occupation, as determined under Subsection (e); or

(B) is enrolled in a special education program under Subchapter A;

(2) the student passes a certification examination to qualify for a license or certificate for the [trade or] occupation; and

(3) the student submits to the district a written application in the form, time, and manner required by the district for the district to subsidize the cost of an examination described by Subdivision (2) [demonstrates financial need].

(c) On approval by the commissioner, the agency shall pay each school district ~~[eligible student]~~ an amount equal to the cost paid by the ~~district or student~~ for the certification examination. To obtain reimbursement for a subsidy paid under this section, a district ~~[student]~~ must:

(1) pay the fee for the examination or pay the student the amount of the fee paid by the student for the examination; and

(2) submit to the commissioner a written application on a form prescribed by the commissioner stating ~~[demonstrating financial need and]~~ the amount of the fee paid under Subdivision (1) ~~[by the student]~~ for the certification examination.

(e) The commissioner, in collaboration with the commissioner of higher education and the Texas Workforce Commission, shall determine as necessary the occupations that qualify for purposes of this section.

SECTION 23. Section 29.915, Education Code, is amended by amending Subsection (d) and adding Subsection (f) to read as follows:

(d) The agency shall develop an application and selection process for selecting school districts to participate in the program. The agency may select not more than 100 ~~[25]~~ school districts to participate in the program.

(f) Not later than January 1, 2011, the agency shall provide each member of the legislature with a report relating to the implementation and effectiveness of the program. This subsection expires February 1, 2011.

SECTION 24. Section 29.918(a), Education Code, is amended to read as follows:

(a) Notwithstanding Section 39.114 or 42.152, a school district or open-enrollment charter school with a high dropout rate, as determined by the commissioner, must submit a plan to the commissioner describing the manner in which the district or charter school intends to use the compensatory education allotment under Section 42.152 and the high school allotment under Section 42.160 ~~[42.2516(b)(3)]~~ for developing and implementing research-based strategies for dropout prevention. The district or charter school shall submit the plan not later than December 1 of each school year preceding the school year in which the district or charter school will receive the compensatory education allotment or high school allotment to which the plan applies.

SECTION 25. Section 29.919(e), Education Code, is amended to read as follows:

(e) As a condition of receiving a state grant, a campus must contribute additional funding for activities provided at the campus through the program, in an amount equal to at least \$100 each school year for each student in an eligible grade level served through the program. The additional funding required by this subsection may consist of local funds, private funds, or state funds other than grant funds provided under this section. For program activities provided at the high school level, the high school allotment provided under Section 42.160 ~~[42.2516(b)(3)]~~ may be used to meet the additional funding requirement prescribed by this subsection.

SECTION 26. Section 30A.002, Education Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A student is eligible to enroll full-time in courses provided through the state virtual school network only if:-

~~[(+)]~~ the student was enrolled in a public school in this state in the preceding school year.

(c) Notwithstanding Subsection (a)(3) or (b), a student is eligible to enroll in one or more courses provided through the state virtual school network or enroll full-time in courses provided through the network if:

(2) the student:

- (1) [(A)] is a dependent of a member of the United States military;
- (2) [(B)] was previously enrolled in high school in this state; and
- (3) [(C)] does not reside in this state due to a military deployment or transfer.

SECTION 27. Section 30A.004, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Requirements imposed by or under this chapter do not apply to a virtual course provided by a school district only to district students if the course is not provided as part of the state virtual school network.

SECTION 28. Subchapter A, Chapter 30A, Education Code, is amended by adding Section 30A.006 to read as follows:

Sec. 30A.006. AUTHORIZATION FOR CERTAIN ELECTRONIC COURSES AND PROGRAMS. (a) An electronic course or program that was offered or could have been offered during the 2008-2009 school year under Section 29.909, as that section existed on January 1, 2009, may be offered during a subsequent school year through the state virtual school network.

(b) The commissioner may by rule modify any provision of this chapter necessary to provide for the transition of an electronic course or program from the authority to operate under former Section 29.909 to the authority to operate under this chapter.

SECTION 29. Section 30A.101(b), Education Code, is amended to read as follows:

(b) An open-enrollment charter school campus is eligible to act as a provider school under this chapter only if the campus [school] is rated recognized or higher under Section 39.072, except that a campus may act as a provider school to students receiving educational services under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice if the campus is rated academically acceptable or higher. A campus [and] may serve as a provider school only:

(1) to a student within the school district in which the campus [school] is located or within its service area, whichever is smaller; or

(2) to another student in the state:

(A) through an agreement with the school district in which the student resides; or

(B) if the student receives educational services under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice, through an agreement with the applicable agency [administering authority under Section 30A.153].

SECTION 30. Section 30A.104, Education Code, is amended to read as follows:

Sec. 30A.104. COURSE ELIGIBILITY IN GENERAL. A course offered through the state virtual school network must:

(1) be in a specific subject that is part of the required curriculum under Section 28.002(a);

(2) be aligned with the essential knowledge and skills identified under Section 28.002(c) for a grade level at or above grade level three; and

(3) be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting during:

(A) a semester of 90 instructional days; and

(B) a school day that meets the minimum length of a school day required under Section 25.082.

SECTION 31. Sections 30A.105(c) and (d), Education Code, are amended to read as follows:

(c) ~~The agency shall [A school district, open enrollment charter school, or public or private institution of higher education that submits an electronic course to the administering authority for approval must] pay [a fee in an amount established by the commissioner as sufficient to recover] the reasonable costs of [to the administering authority in] evaluating and approving electronic courses. If funds available to the agency for that purpose are insufficient to pay the costs of evaluating and approving all electronic courses submitted for evaluation and approval, the agency shall give priority to paying the costs of evaluating and approving the following courses:~~

(1) courses that satisfy high school graduation requirements;

(2) courses that would likely benefit a student in obtaining admission to a postsecondary institution;

(3) courses, including dual credit courses, that allow a student to earn college credit or other advanced credit;

(4) courses in subject areas most likely to be highly beneficial to students receiving educational services under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice; and

(5) courses in subject areas designated by the commissioner as commonly experiencing a shortage of teachers.

~~(d) If the agency determines that the costs of evaluating and approving a submitted electronic course will not be paid by the agency due to a shortage of funds available for that purpose, the [The administering authority shall waive the fee required by Subsection (c) if a] school district, open-enrollment charter school, or public or private institution of higher education that submitted the [applies for approval of an electronic] course for evaluation and approval may pay the costs in order to ensure that evaluation of the course occurs [that was developed independently by the district, school, or institution. For purposes of this subsection, an electronic course is developed independently by a district, school, or institution if a district, school, or institution employee is responsible for developing substantially each aspect of the course, including:~~

~~(1) determining the curriculum elements to be included in the course;~~

~~(2) selecting any instructional materials for the course;~~

~~(3) determining the manner in which instruction is to be delivered;~~

~~(4) creating a lesson plan or similar description of the instructional aspects of the course;~~

~~(5) determining any special projects or assignments a student in the course must complete; and~~

~~(6) determining the manner in which a student's progress in the course will be measured].~~

SECTION 32. Subchapter C, Chapter 30A, Education Code, is amended by adding Section 30A.1051 to read as follows:

Sec. 30A.1051. ELECTRONIC COURSE PORTABILITY. A student who transfers from one educational setting to another after beginning enrollment in an electronic course is entitled to continue enrollment in the course.

SECTION 33. Section 30A.107(a), Education Code, is amended to read as follows:

(a) A provider school district or school may offer electronic courses to:

(1) students who reside in this state; and

(2) students who reside outside this state and who meet the eligibility requirements under Section 30A.002(c) [~~30A.002(b)~~].

SECTION 34. Section 30A.109, Education Code, is amended to read as follows:

Sec. 30A.109. COMPULSORY ATTENDANCE. The commissioner by rule shall adopt procedures for reporting and verifying the attendance of a student enrolled in an electronic course provided through the state virtual school network. The rules may modify the application of Sections 25.085, 25.086, and 25.087 for a student enrolled in an electronic course but must require participation in an educational program equivalent to the requirements prescribed by those sections.

SECTION 35. Section 30A.111, Education Code, is amended to read as follows:

Sec. 30A.111. TEACHER AND INSTRUCTOR QUALIFICATIONS. (a) Each teacher of an electronic course offered by a school district or open-enrollment charter school through the state virtual school network must:

(1) be certified under Subchapter B, Chapter 21, to teach that course and grade level; and

(2) successfully complete the appropriate professional development course provided under Section 30A.112(a) or 30A.1121 before teaching an electronic course offered through the network.

(b) The commissioner by rule shall establish procedures for verifying successful completion by a teacher of the appropriate professional development course required by Subsection (a)(2).

(c) The commissioner by rule shall establish qualifications and professional development requirements applicable to college instructors providing instruction in dual credit courses through the state virtual school network that allow a student to earn high school credit and college credit or other credit.

SECTION 36. Subchapter C, Chapter 30A, Education Code, is amended by adding Section 30A.1121 to read as follows:

Sec. 30A.1121. ALTERNATIVE EDUCATOR PROFESSIONAL DEVELOPMENT. (a) Subject to Subsection (b), a school district or open-enrollment charter school may provide professional development courses to teachers seeking to become authorized to teach electronic courses provided through the state virtual school network. A district or school may provide a professional development course that is approved under Subsection (b) to any interested teacher, regardless of whether the teacher is employed by the district or school.

(b) The agency shall review each professional development course sought to be provided by a school district or open-enrollment charter school under Subsection (a) to determine if the course meets the quality standards established under Section 30A.113. If a course meets those standards, the district or school may provide the course for purposes of enabling a teacher to comply with Section 30A.111(a)(2).

SECTION 37. Section 30A.151, Education Code, is amended by adding Subsection (f) to read as follows:

(f) For a full-time electronic course program offered through the state virtual school network for a grade level at or above grade level three but not above grade level eight, a school district or open-enrollment charter school is entitled to receive federal, state, and local funding for a student enrolled in the program in an amount equal to the funding the district or school would otherwise receive for a student enrolled in the district or school. The district or school may calculate the average daily attendance of a student enrolled in the program based on:

- (1) hours of contact with the student;
- (2) the student's successful completion of a course; or
- (3) a method approved by the commissioner.

SECTION 38. Section 30A.155, Education Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (a-1) and (c-1) to read as follows:

(a) A school district or open-enrollment charter school may charge a fee for enrollment in an electronic course provided through the state virtual school network to a student who resides in this state and:

(1) is enrolled in a school district or open-enrollment charter school as a full-time student; and

(2) is enrolled in a course load greater than that normally taken by students in the equivalent grade level in other school districts or open-enrollment charter schools; ~~and~~

~~[(3) does not qualify for accelerated student funding under Section 30A.154].~~

(a-1) A school district or open-enrollment charter school may charge a fee for enrollment in an electronic course provided through the state virtual school network during the summer.

(c) The amount of a fee charged a student under Subsection (a), (a-1), or (b) for each electronic course in which the student enrolls through the state virtual school network may not exceed the lesser of:

- (1) the cost of providing the course; or
- (2) \$400.

(c-1) A school district or open-enrollment charter school that is not the provider school district or school may charge a student enrolled in the district or school a nominal fee, not to exceed the amount specified by the commissioner, if the student enrolls in an electronic course provided through the state virtual school network that exceeds the course load normally taken by students in the equivalent grade level. A juvenile probation department or state agency may charge a comparable fee to a student under the supervision of the department or agency.

(d) Except as provided by this section ~~[Subsection (a) or (b)]~~, the state virtual school network may not charge a fee to students for electronic courses provided through the network.

SECTION 39. Section 33.002(a), Education Code, is amended to read as follows:

(a) From funds appropriated for the purpose or other funds that may be used for the purpose, the commissioner shall distribute funds for programs under this subchapter. In distributing those funds, the commissioner shall give preference to a school district that received funds under this subsection for the preceding school

year and then to the districts that have the highest concentration of students at risk of dropping out of school, as described by Section 29.081. To receive funds for the program, a school district must apply to the commissioner. For each school year that a school district receives funds under this subsection, the district shall allocate an amount of local funds for school guidance and counseling programs that is equal to or greater than the amount of local funds that the school district allocated for that purpose during the preceding school year. This section applies only to a school district that receives funds as provided by this subsection [Section 42.152(i)].

SECTION 40. Sections 39.024(c) and (d), Education Code, are amended to read as follows:

(c) Using funds appropriated for purposes of this subsection, the [The] agency shall develop study guides for the assessment instruments administered under Sections 39.023(a) and (c). To assist parents in providing assistance during the period that school is recessed for summer, each school district shall distribute the study guides to parents of students who do not perform satisfactorily on one or more parts of an assessment instrument administered under this subchapter.

(d) Using funds appropriated for purposes of this subsection, the [The] agency shall develop and make available teacher training materials and other teacher training resources to assist teachers in enabling students of limited English proficiency to meet state performance expectations. The teacher training resources shall be designed to support intensive, individualized, and accelerated instructional programs developed by school districts for students of limited English proficiency.

SECTION 41. Section 39.031, Education Code, is amended to read as follows:

Sec. 39.031. COST. ~~[(a)]~~ The cost of preparing, administering, or grading the assessment instruments and [shall be paid from the funds allotted under Section 42.152, and each district shall bear the cost in the same manner described for a reduction in allotments under Section 42.253. If a district does not receive an allotment under Section 42.152, the commissioner shall subtract the cost from the district's other foundation school fund allotments.

~~[(b) The cost of]~~ releasing the question and answer keys under Section 39.023(e) shall be paid from amounts appropriated to the agency.

SECTION 42. The heading to Section 39.114, Education Code, is amended to read as follows:

Sec. 39.114. USE OF HIGH SCHOOL ALLOTMENT.

SECTION 43. Sections 39.114(a) and (b), Education Code, are amended to read as follows:

(a) Except as provided by Subsection (b), a school district or campus must use funds allocated under Section 42.160 ~~[42.2516(b)(3)]~~ to:

(1) implement or administer a college readiness program that provides academic support and instruction to prepare underachieving students for entrance into an institution of higher education;

(2) implement or administer a program that encourages students to pursue advanced academic opportunities, including early college high school programs and dual credit, advanced placement, and international baccalaureate courses;

(3) implement or administer a program that provides opportunities for students to take academically rigorous course work, including four years of mathematics and four years of science at the high school level;

(4) implement or administer a program, including online course support and professional development, that aligns the curriculum for grades six through 12 with postsecondary curriculum and expectations; or

(5) implement or administer other high school completion and success initiatives in grades six through 12 approved by the commissioner.

(b) A school district may use funds allocated under Section 42.160 [~~42.2516(b)(3)~~] on any instructional program in grades six through 12 other than an athletic program if:

(1) the district is recognized as exceptional by the commissioner under the academic accountability indicator adopted under Section 39.051(b)(13); and

(2) the district's completion rates for grades nine through 12 meet or exceed completion rate standards required by the commissioner to achieve a rating of exemplary under Section 39.072.

SECTION 44. Section 41.002(a), Education Code, is amended to read as follows:

(a) A school district may not have a wealth per student that exceeds:

(1) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district with maintenance and operations tax revenue per cent of tax effort equal to the maximum amount provided per cent under Section 42.101 [~~at the 88th percentile in wealth per student~~], for the district's maintenance and operations tax effort equal to or less than the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, subject to Section 41.093(b-1); or

(3) \$319,500, for the district's maintenance and operations tax effort that exceeds the first six cents by which the district's maintenance and operations tax effort exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 45. Section 41.093(b-1), Education Code, is amended to read as follows:

(b-1) If the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302(a-1)(1) [~~42.302(a-1)(2)~~] for which state funds are appropriated for a school year is an amount at least equal to the amount of revenue per weighted student per cent of tax effort available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, the commissioner, in computing the amounts described by Subsections (a)(1) and (2) and determining the cost of an attendance credit, shall exclude maintenance and operations tax revenue resulting from the first six cents by which a district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 46. Section 41.121, Education Code, is amended to read as follows:

Sec. 41.121. AGREEMENT. (a) The board of trustees of a district with a wealth per student that exceeds the equalized wealth level may execute an agreement to educate the students of another district in a number that, when the weighted average daily attendance of the students served is added to the weighted average daily attendance of the contracting district, is sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner certifies that the transfer of weighted average daily attendance will not result in any of the contracting districts' wealth per student being greater than the equalized wealth level and that the agreement requires an expenditure per student in weighted average daily attendance that is at least equal to the amount per student in weighted average daily attendance required under Section 41.093[~~unless it is determined by the commissioner that a quality educational program can be delivered at a lesser amount. The commissioner may approve a special financial arrangement between districts if that arrangement serves the best educational interests of the state~~].

(b) Notwithstanding the amendment of this section by **HB 3646**, Acts of the 81st Legislature, Regular Session, 2009, the commissioner may provide for the continuation of an agreement in existence during the 2008-2009 school year under the authority of this section, as it existed on May 1, 2009, and implementing rules as they existed on May 1, 2009, if the commissioner determines that the agreement benefits the education of students in the districts subject to the agreement. This subsection expires September 1, 2011.

SECTION 47. Section 42.005(g), Education Code, is amended to read as follows:

(g) If a student may receive course credit toward the student's high school academic requirements and toward the student's higher education academic requirements for a single course, including a course provided under Section 28.009 by a public institution of higher education, the time during which the student attends the course shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of this section.

SECTION 48. Effective September 1, 2011, Section 42.005(g), Education Code, is amended to read as follows:

(g) If a student may receive course credit toward the student's high school academic requirements and toward the student's higher education academic requirements for a single course, the time during which the student attends the course shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of this section.

SECTION 49. Subchapter A, Chapter 42, Education Code, is amended by adding Section 42.008 to read as follows:

Sec. 42.008. LIMITATION ON REVENUE INCREASES. (a) Notwithstanding any other provision of this title, a school district is not entitled in any school year to receive an amount of state and local maintenance and operations revenue per student in weighted average daily attendance that exceeds by more than \$350 the amount of state and local maintenance and operations revenue per student in weighted average daily attendance received by the district during the preceding school year.

(a-1) Subsection (a) applies beginning with the 2010-2011 school year. For the 2009-2010 school year, a school district is not entitled to receive an amount of state and local maintenance and operations revenue per student in weighted average daily attendance that exceeds by more than \$350 the amount of state and local maintenance and operations revenue per student in weighted average daily attendance that the district would have received during that year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year. This subsection expires September 1, 2010.

(b) Enrichment revenue to which a school district is entitled under Section 42.302 is not included for purposes of determining the limitation imposed by this section.

(c) The commissioner shall make adjustments to amounts due to a school district under this chapter or amounts required for a district to comply with Chapter 41 as necessary to comply with the limitation imposed by this section.

(d) A determination by the commissioner under this section is final and may not be appealed.

SECTION 50. Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC ALLOTMENT. (a) For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment [~~in an amount~~] equal to the lesser of \$4,765 or the amount that results from the following formula:

$$\underline{A = \$4,765 \times (DCR/MCR)}$$

where:

"A" is the allotment to which a district is entitled;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;
and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50 [~~product of the amount per student per cent of tax effort available to a district at the percentile in wealth per student specified by Section 42.302(a-1)(1), multiplied by 86~~].

(a-1) Subsection (a) applies beginning with the 2013-2014 school year. For the 2009-2010 through 2012-2013 school years, Subsection (a) applies, except each reference to \$4,765 in that subsection is replaced with an amount equal to the greater of:

(1) \$4,765; or

(2) the amount equal to the product of .0165 and the average statewide property value per weighted student.

(a-2) Subsection (a-1) and this subsection expire September 1, 2013.

(b) A greater amount for any school year may be provided by appropriation.

SECTION 51. Section 42.106, Education Code, is amended to read as follows:

Sec. 42.106. TUITION ALLOTMENT [~~ADJUSTED PROPERTY VALUE~~] FOR DISTRICTS NOT OFFERING ALL GRADE LEVELS. A [~~For purposes of this chapter, the taxable value of property of a~~] school district that contracts for students residing in the district to be educated in another district under Section 25.039(a) is entitled to receive an allotment equal to [~~adjusted by applying the formula:~~

$$[\text{ADPV} = \text{DPV} - (\text{TN}/.015)]$$

[where:

["ADPV" is the district's adjusted taxable value of property;

["DPV" is the taxable value of property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code; and

["TN" is] the total amount of tuition required to be paid by the district under Section 25.039 [~~for the school year for which the adjustment is made~~], not to exceed the amount specified by commissioner rule under Section 25.039(b).

SECTION 52. Section 42.152(c), Education Code, is amended to read as follows:

(c) Funds allocated under this section shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by Section 29.081, and all other students. Specifically, the funds, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 45 [~~45~~] percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or an alternative education program established under Section 37.008 or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081, a district's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. A home-rule school district or an open-enrollment charter school must use funds allocated under Subsection (a) for a purpose authorized in this subsection but is not otherwise subject to Subchapter C, Chapter 29. Notwithstanding any other provisions of this section:

(1) to ensure that a sufficient amount of the funds allotted under this section are available to supplement instructional programs and services, no more than 18 percent of the funds allotted under this section may be used to fund disciplinary alternative education programs established under Section 37.008;

(2) the commissioner may waive the limitations of Subdivision (1) upon an annual petition, by a district's board and a district's site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on disciplinary alternative education programs under Section 37.008, provided that:

(A) the district in its petition reports the number of students in each grade level, by demographic subgroup, not making satisfactory progress under the state's assessment system; and

(B) the commissioner makes the waiver request information available annually to the public on the agency's website; and

(3) for purposes of this subsection, a program specifically designed to serve students at risk of dropping out of school, as defined by Section 29.081, is considered to be a program supplemental to the regular education program, and a district may use its compensatory education allotment for such a program.

SECTION 53. Section 42.152, Education Code, is amended by adding Subsections (s), (s-1), (s-2), and (s-3) to read as follows:

(s) In addition to the allotment provided under Subsection (a), a school district is entitled to an annual allotment equal to \$650:

(1) for each student in average daily attendance who has a parent or guardian who is serving on active duty in a combat zone as a member of the armed forces of the United States; and

(2) for each student in average daily attendance who:

(A) has a parent or guardian serving on active duty as a member of the armed forces of the United States; and

(B) has transferred to a campus in the district during the school year as a result of a change in residence because of an action taken under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687).

(s-1) Notwithstanding any other provision of this section, a school district may use funds allotted to the district under Subsection (s) only to provide supplemental programs and services described by Subsection (c) or Subsection (f) for students described by Subsection (s) who are enrolled in the district.

(s-2) The commissioner may provide allotments under Subsection (s) only if funds are specifically appropriated for that purpose or the commissioner determines that the amount appropriated for purposes of the Foundation School Program exceeds the amount to which school districts are entitled under this chapter and the excess funds may be used that that purpose. The amount appropriated for allotments under Subsection (s) may not exceed \$9.9 million in a school year. If the total amount of allotments to which districts are entitled under Subsection (s) for a school year exceeds the amount appropriated or otherwise available for allotments under that subsection, the commissioner shall reduce each district's allotment under that subsection proportionately.

(s-3) Subsections (s), (s-1), (s-2), and this subsection expire September 1, 2013.

SECTION 54. Section 42.154(a), Education Code, is amended to read as follows:

(a) For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades nine through 12 or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to:

(1) an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and

(2) \$50, if the student is enrolled in:

(A) two or more advanced career and technology education classes for a total of three or more credits; or

(B) an advanced course as part of a tech-prep program under Subchapter T, Chapter 61.

SECTION 55. Subchapter C, Chapter 42, Education Code, is amended by adding Section 42.1541 to read as follows:

Sec. 42.1541. INDIRECT COST ALLOTMENTS. (a) The State Board of Education shall by rule increase the indirect cost allotments established under Sections 42.151(h), 42.152(c), 42.153(b), and 42.154(a-1) and (c) and in effect for the 2008-2009 school year as necessary to reflect the increased percentage of total maintenance and operations funding represented by the basic allotment under Section 42.101 as a result of amendment of that section by **HB 3646**, Acts of the 81st Legislature, Regular Session, 2009.

(b) The board shall take the action required by Subsection (a) not later than the date that permits the increased indirect cost allotments to apply beginning with the 2009-2010 school year.

(c) This section expires September 1, 2010.

SECTION 56. Subchapter C, Chapter 42, Education Code, is amended by adding Sections 42.159 and 42.160 to read as follows:

Sec. 42.159. STATE VIRTUAL SCHOOL NETWORK ALLOTMENTS.

(a) In this section:

(1) "Electronic course" means a course that is a semester in length.

(2) "Normal course load" means the number of classes or credit hours generally required to be taken by a student to generate the full amount of funding provided under this chapter for a student in average daily attendance, as determined by the commissioner.

(3) "State virtual school network" means the system established under Chapter 30A.

(b) For each student who successfully completes an electronic course that satisfies a curriculum requirement for graduation adopted under Section 28.025 and is provided through the state virtual school network as part of a normal course load:

(1) the school district or open-enrollment charter school that provided the course is entitled to an allotment of \$400; and

(2) the school district or open-enrollment charter school in which the student is enrolled is entitled to an allotment of \$80 to reimburse the district or school for associated administrative costs.

(c) A juvenile probation department or state agency is entitled to receive state funding comparable to the funding described by Subsection (b)(2) for students under the supervision of the department or agency.

(d) For each student who successfully completes an electronic course that satisfies a curriculum requirement for graduation adopted under Section 28.025, is provided through the state virtual school network, and exceeds a normal course load, including an electronic course offered during the summer, the school district or open-enrollment charter school that provided the course may be entitled to an allotment in an amount determined by the commissioner based on the amount of funds appropriated for purposes of this subsection.

(e) The commissioner may set aside an amount not to exceed 50 percent of the total funds appropriated for allotments under Subsection (d) and use that amount to pay the costs of providing through the state virtual school network electronic courses through which students may recover academic credit for courses in which the students were previously unsuccessful. The commissioner may reserve a portion of the set-aside amount for payment of the costs of providing electronic courses described by this subsection to students in alternative education settings. For purposes of this subsection, students in

alternative education settings include students in disciplinary alternative education programs under Section 37.008, students in juvenile justice alternative education programs under Section 37.011, and students under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice.

(f) The commissioner may not provide partial funding under this section to a school district or open-enrollment charter school under Subsection (b) or (d) on the basis of a student who successfully completes one or more modules of an electronic course but does not successfully complete the entire course.

(g) Amounts received by a school district or open-enrollment charter school under this section are in addition to any amounts to which the district or school is entitled to receive or retain under Chapter 12 or 41 or this chapter and are not subject to reduction under any provision of those chapters.

(h) The commissioner shall adopt rules necessary to implement this section. The rules must include provisions:

(1) requiring a school district or open-enrollment charter school that receives funding for an electronic course under Subsection (d) to reduce the amount of any fee charged for the course in accordance with Section 30A.155 by an amount equal to the amount of funding provided under Subsection (d);

(2) prohibiting a school district or open-enrollment charter school that receives funding for an electronic course under Subsection (d) from charging a fee for the course in accordance with Section 30A.155 that is higher than would otherwise be charged; and

(3) addressing division and distribution of the allotment described by Subsection (b)(2) in circumstances in which a student transfers from one school district, school, or other educational setting to another after beginning enrollment in an electronic course.

Sec. 42.160. HIGH SCHOOL ALLOTMENT. (a) A school district is entitled to an annual allotment of \$275 for each student in average daily attendance in grades 9 through 12 in the district.

(b) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level is entitled to a credit, in the amount of the allotments to which the district is entitled under this section, against the total amount required under Section 41.093 for the district to purchase attendance credits. A school district that is otherwise ineligible for state aid under this chapter is entitled to receive allotments under this section.

(c) An open-enrollment charter school is entitled to an allotment under this section in the same manner as a school district.

(d) The commissioner shall adopt rules to administer this section, including rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.

SECTION 57. Section 42.2516, Education Code, is amended to read as follows:

Sec. 42.2516. ADDITIONAL STATE AID FOR TAX REDUCTION. (a) In this section, "state compression percentage" means the percentage, as determined by the commissioner, of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding for tax rate reduction under this section. The commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate

for the 2005 tax year, as a result of state funds appropriated for distribution under this section for that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

(b) Notwithstanding any other provision of this title, a school district that imposes a maintenance and operations tax at a rate at least equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year is entitled to at least the amount of state revenue necessary to provide the district with the sum of:

(1) as calculated under Subsection (e), the amount of state and local revenue per student in weighted average daily attendance for maintenance and operations that the district would have received during the 2009-2010 school year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) an amount equal to the product of \$120 multiplied by the number of students in weighted average daily attendance in the district;

(3) an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year; and

(4) any amount to which the district is entitled under Section 42.106.

~~[(a) Subsection (a) applies beginning with the state fiscal year ending August 31, 2009. For the state fiscal year ending August 31, 2007, the state compression percentage is 88.67 percent. For the state fiscal year ending August 31, 2008, the state compression percentage is 66.67 percent. This subsection expires September 1, 2009.~~

~~[(b) Subject to Subsections (b 1), (b 2), (f 1), (g), and (h), but notwithstanding any other provision of this title, a school district is entitled to state revenue necessary to provide the district with the sum of:~~

~~[(1) the amount of state revenue necessary to maintain state and local revenue per student in weighted average daily attendance in the amount equal to the greater of:~~

~~[(A) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the 2005-2006 school year;~~

~~[(B) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate adopted by the district for the 2005 tax year; or~~

~~[(C) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the~~

funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate equal to the rate described by Section 26.08(i) or (k)(1), Tax Code, as applicable, for the 2006 tax year;

~~[(2) an amount equal to the product of \$2,500 multiplied by the number of classroom teachers, full time librarians, full time counselors certified under Subchapter B, Chapter 21, and full time school nurses employed by the district and entitled to a minimum salary under Section 21.402; and~~

~~[(3) an amount equal to the product of \$275 multiplied by the number of students in average daily attendance in grades nine through 12 in the district.]~~

(b-1) The amount determined for a school district under Subsection (b) is increased or reduced as follows:

(1) if for any school year the district is entitled to a greater allotment under Section 42.155 or 42.158 or more additional state aid under Section 42.2515 than the allotment or additional state aid to which the district was entitled under Section 42.155, 42.158, or 42.2515, as applicable, ~~[that section]~~ for the 2009-2010 school year ~~[on which the district's entitlement under Subsection (b) is based]~~, the district's entitlement under Subsection (b) is increased by an amount equal to the difference between the amount to which the district is entitled under Section 42.155, 42.158, or 42.2515, as applicable, for that school year and the amount to which the district was entitled under the applicable ~~[that]~~ section for the 2009-2010 school year[:

~~[(A) the 2005-2006 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(A); or~~

~~[(B) the 2006-2007 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(B) or (C); and~~

(2) if for any school year the district is not entitled to an allotment under Section 42.155 or 42.158 or additional state aid under Section 42.2515 or is entitled to a lesser allotment or less additional state aid under the applicable ~~[that]~~ section than the allotment or additional state aid to which the district was entitled under the applicable ~~[that]~~ section for the 2009-2010 school year ~~[on which the district's entitlement under Subsection (b) is based]~~, the district's entitlement under Subsection (b) is reduced by an amount equal to the difference between the amount to which the district was entitled under Section 42.155, 42.158, or 42.2515, as applicable, for the 2009-2010 ~~[2005-2006 or 2006-2007]~~ school year~~], as appropriate based on whether the district's entitlement under Subsection (b) is determined under Subsection (b)(1)(A), (B), or (C),]~~ and the amount to which the district is entitled under the applicable section ~~[Section 42.158]~~ for the current school year.

~~[(b-2) The amount determined for a school district under Subsection (b) is increased or reduced as follows:~~

~~[(1) if for any school year the district is entitled to a greater allotment under Section 42.155 or greater additional state aid under Section 42.2515 than the allotment or additional state aid to which the district was entitled under Section 42.155 or 42.2515, as applicable, for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is increased by an amount equal to the difference between the amount to which the district is entitled under Section 42.155 or 42.2515, as applicable, for that school year and the amount to which the district was entitled under the applicable section, as applicable for:~~

~~[(A) the 2005-2006 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(A); or~~

~~[(B) the 2006-2007 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(B) or (C); and~~

~~[(2) if for any school year the district is not entitled to an allotment under Section 42.155 or additional state aid under Section 42.2515 or is entitled to a lesser allotment or less additional state aid under the applicable section than the allotment or additional state aid to which the district was entitled under the applicable section for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is reduced by an amount equal to the difference between the amount to which the district was entitled under Section 42.155 or 42.2515, as applicable, for the 2005-2006 or 2006-2007 school year, as appropriate based on whether the district's entitlement under Subsection (b) is determined under Subsection (b)(1)(A), (B), or (C), and the amount to which the district is entitled under the applicable section for the current school year.]~~

~~(c) Enrichment revenue to which a school district is entitled under Section 42.302 is not included for purposes of determining the amount to which a district is entitled under this section. [In determining the amount to which a district is entitled under Subsection (b)(1), the commissioner shall include:~~

~~[(1) any amounts described by Rider 69, page III-19, Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act);~~

~~[(2) for a school district that received additional revenue for the 2005-2006 school year as a result of an agreement under Subchapter E, Chapter 41;~~

~~[(A) if the amount of state revenue to which the district is entitled under Subsection (b) is computed based on the amount described by Subsection (b)(1)(A), the amount of that additional revenue retained by the district for the 2005-2006 school year, which is the amount by which the total maintenance and operations revenue available to the district for that school year exceeded the total maintenance and operations revenue that would have been available to the district for that school year if the district had not entered into the agreement, less any amount the district paid to another entity under the agreement; or~~

~~[(B) if the amount of state revenue to which the district is entitled under Subsection (b) is computed based on the amount described by Subsection (b)(1)(B) or (C), the amount of the additional revenue that would have been retained by the district for the 2006-2007 school year if the district had entered into the agreement on the same terms as under the agreement for the 2005-2006 school year, which is the amount by which the total maintenance and operations revenue that would have been available to the district for the 2006-2007 school year if the district had entered into the agreement exceeds the total maintenance and operations revenue that would have been available to the district for that school year if the district had not entered into the agreement and had imposed a maintenance and operations tax at the rate of \$1.50 on the \$100 valuation of taxable property, less any amount the district would have paid to another entity under the agreement;~~

~~[(3) any amount necessary to reflect an adjustment made by the commissioner under Section 42.005;~~

~~[(4) any amount necessary to reflect an adjustment made by the commissioner under Section 42.2521; and~~

~~[(5) any amount necessary to reflect an adjustment made by the commissioner under Section 42.2531.]~~

(d) In determining the amount to which a district is entitled under Subsection (b)(1), the commissioner shall:

(1) include any amounts received by the district during the 2008-2009 school year under Rider 86, page III-23, Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); and

(2) for a school district that paid tuition under Section 25.039 during the 2008-2009 school year, reduce the amount to which the district is entitled by the amount of tuition paid during that school year. ~~[If, for the 2006-2007 or a subsequent school year, a school district enters into an agreement under Subchapter E, Chapter 41, the commissioner shall reduce the amount of state revenue to which the district is entitled under Subsection (b) for that school year by an amount equal to any additional revenue for that school year that the district receives and retains as a result of that agreement, which is the amount by which the total maintenance and operations revenue available to the district exceeds the total maintenance and operations revenue that would have been available to the district if the district had not entered into the agreement and had imposed a maintenance and operations tax at the maximum rate permitted under Section 45.003(d), less any amount the district pays to another entity under the agreement.]~~

(e) For purposes of determining the total amount of state and local revenue to which a district is entitled under Subsection (b)(1), the commissioner shall determine the amount of state and local revenue per student in weighted average daily attendance to which the district would have been entitled during the 2009-2010 school year under Chapter 41 and this chapter, as they existed on January 1, 2009, and multiply that amount by the number of students in weighted average daily attendance as determined in accordance with the changes to Chapter 41 and this chapter, including the repeal of former Section 42.103(e), made by **HB 3646**, Acts of the 81st Legislature, Regular Session, 2009. ~~[The amount of revenue to which a school district is entitled because of the technology allotment under Section 32.005 is not included in making a determination under Subsection (b)(1).]~~

(f) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level and that is entitled to state revenue under this section may receive that revenue through an adjustment against the total amount of attendance credits required to be purchased under Subchapter D, Chapter 41, or the total number of nonresident students required to be educated under Subchapter E, Chapter 41, as determined by the commissioner. ~~[For purposes of determining the amount of revenue to which a school district is entitled under this section, the commissioner shall use the average tax collection rate for the district for the 2003, 2004, and 2005 tax years.]~~

(f-1) The commissioner shall, in accordance with rules adopted by the commissioner, adjust the amount of a school district's local revenue derived from maintenance and operations tax collections, as calculated for purposes of determining the amount of state revenue to which the district is entitled under this section, if the district, for the 2010 ~~[2007]~~ tax year or a subsequent tax year:

(1) adopts an exemption under Section 11.13(n), Tax Code, that was not in effect for the 2009 ~~[2005 or 2006]~~ tax year, or eliminates an exemption under Section 11.13(n), Tax Code, that was in effect for the 2009 ~~[2005 or 2006]~~ tax year;

(2) adopts an exemption under Section 11.13(n), Tax Code, at a greater or lesser percentage than the percentage in effect for the district for the 2009 ~~[2005 or 2006]~~ tax year;

(3) grants an exemption under an agreement authorized by Chapter 312, Tax Code, that was not in effect for the 2009 ~~[2005 or 2006]~~ tax year, or ceases to grant an exemption authorized by that chapter that was in effect for the 2009 ~~[2005 or 2006]~~ tax year; or

(4) agrees to deposit taxes into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan that was not in effect for the 2009 ~~[2005 or 2006]~~ tax year, or ceases depositing taxes into a tax increment fund created under that chapter under a reinvestment zone financing plan that was in effect for the 2009 ~~[2005 or 2006]~~ tax year.

(f-2) The rules adopted by the commissioner under Subsection (f-1) must:

(1) require the commissioner to determine, as if this section did not exist, the effect under Chapter 41 and this chapter of a school district's action described by Subsection (f-1)(1), (2), (3), or (4) on the total state revenue to which the district would be entitled or the cost to the district of purchasing sufficient attendance credits to reduce the district's wealth per student to the equalized wealth level; and

(2) require an increase or reduction in the amount of state revenue to which a school district is entitled under Subsection (b) that is substantially equivalent to any change in total state revenue or the cost of purchasing attendance credits that would apply to the district if this section did not exist.

(f-3) An adjustment made by the commissioner under the rules adopted under Subsection (f-1) is final and may not be appealed.

(g) ~~The commissioner may adopt rules necessary to implement this section. [If a school district adopts a maintenance and operations tax rate that is below the rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, the commissioner shall reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to the product of the state compression percentage multiplied by the rate adopted by the district for the 2005 tax year.]~~

(h) ~~A determination by the commissioner under this section is final and may not be appealed. [Notwithstanding any other provision of this title, if the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district in a school year as a result of increases to the equalized wealth level under Section 41.002, the basic allotment under Section 42.101, and the guaranteed level under Section 42.302 made by **HB 1**, Acts of the 79th Legislature, 3rd Called Session, 2006, exceeds the amount to which a district is entitled under Subsection (b) for that school year, the commissioner must:~~

~~(1) reduce the amount of state aid provided to the district for that school year by an amount equal to the excess revenue, as determined by the commissioner; or~~

~~(2) for a district with a wealth per student greater than the applicable amount described by Section 41.002(a), require the district to purchase a number of attendance credits for that school year at a cost equal to the amount of excess revenue, as determined by the commissioner.~~

~~[(i) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level and that is entitled to state revenue under this section may receive that revenue through an adjustment against the total amount of attendance credits required to be purchased under Subchapter D, Chapter 41, or the total number of nonresident students required to be educated under Subchapter E, Chapter 41, as determined by the commissioner.~~

~~[(j) If a school district reduces its maintenance and operations tax rate by an amount less than the rate equal to the product of the difference between the state compression percentage for the preceding year and the state compression percentage for the year of the reduction, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, the commissioner may not reduce the amount to which the district is entitled under this section on the basis of the additional revenue collected by the district.~~

~~[(k) The commissioner may adopt rules necessary to administer this section.~~

~~[(l) A determination by the commissioner under this section is final and may not be appealed.]~~

SECTION 58. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.25161 to read as follows:

Sec. 42.25161. ADDITIONAL STATE AID FOR SOUTH TEXAS INDEPENDENT SCHOOL DISTRICT. (a) The commissioner shall provide South Texas Independent School District with the amount of state aid necessary to ensure that the district receives an amount of state and local revenue per student in weighted average daily attendance that is at least \$120 greater than the amount the district would have received per student in weighted average daily attendance during the 2009-2010 school year under this chapter, as it existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, provided that the district imposes a maintenance and operations tax at that rate.

(b) The commissioner may adopt rules necessary to implement this section.

(c) A determination by the commissioner under this section is final and may not be appealed.

SECTION 59. Section 42.252(a), Education Code, is amended to read as follows:

(a) Each school district's share of the Foundation School Program is determined by the following formula:

$$LFA = TR \times DPV$$

where:

"LFA" is the school district's local share;

"TR" is a tax rate which for each hundred dollars of valuation is an effective tax rate of the amount equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the lesser of:

(1) \$1.50; or

(2) the maintenance and operations tax rate adopted by the district for the 2005 tax year [~~\$0.86~~]; and

"DPV" is the taxable value of property in the school district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code.

SECTION 60. Section 42.253, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The amounts to be paid under Section 42.2516(b)(3) shall be paid at the same time as other state revenue is paid to the district. Payments shall be based on amounts paid under Section 42.2516(b)(3) for the preceding year. Any deficiency shall be paid to the district at the same time the final amount to be paid to the district is determined, and any overpayment shall be deducted from the payments the district would otherwise receive in the following year.

SECTION 61. Section 42.259, Education Code, is amended by adding Subsection (g) to read as follows:

(g) The commissioner shall make all annual Foundation School Program payments under this section for purposes described by Sections 45.252(a)(1) and (2) before the deadline established under Section 45.263(b) for payment of debt service on bonds. Notwithstanding any other provision of this section, the commissioner may make Foundation School Program payments under this section after the deadline established under Section 45.263(b) only if the commissioner has not received notice under Section 45.258 concerning a district's failure or inability to pay matured principal or interest on bonds.

SECTION 62. Section 42.260(a), Education Code, is amended to read as follows:

(a) In this section, "participating charter school" means an open-enrollment charter school that participates in the uniform group coverage program established under Chapter 1579, Insurance Code [has the meaning assigned by Section 42.2514].

SECTION 63. Sections 42.302(a), (a-1), and (a-2), Education Code, are amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is an amount described by Subsection (a-1) or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158, 42.159, or 42.160, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

(a-1) In this section, "wealth per student" has the meaning assigned by Section 41.001. For purposes of Subsection (a), the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") for a school district is:

(1) ~~the greater of [the amount of district tax revenue per weighted student per cent of tax effort available to a district at the 88th percentile in wealth per student, as determined by the commissioner in cooperation with the Legislative Budget Board, for the district's maintenance and operations tax effort equal to or less than the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;~~

~~[(2)] the amount of district tax revenue per weighted student per cent of tax effort that would be available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, if the reduction of the limitation on tax increases as provided by Section 11.26(a-1), (a-2), or (a-3), Tax Code, did not apply, or the amount of district tax revenue per weighted student per cent of tax effort used for purposes of this subdivision in the preceding school year, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516 [and notwithstanding the limitation on district enrichment tax rate ("DTR") under Section 42.303], multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and~~

~~(2) [(3)] \$31.95, for the district's maintenance and operations tax effort that exceeds the amount of tax effort described by Subdivision (1) [(2)].~~

(a-2) The limitation on district enrichment tax rate ("DTR") under Section 42.303 does not apply to the district's maintenance and operations tax effort described by Subsection (a-1)(1) [(a-1)(2)].

SECTION 64. Section 42.303, Education Code, is amended to read as follows:

Sec. 42.303. LIMITATION ON ENRICHMENT TAX RATE. The district enrichment tax rate ("DTR") under Section 42.302 may not exceed the amount per \$100 of valuation by which the maximum rate permitted under Section 45.003 exceeds the rate used to determine the district's local share under Section 42.252 [of \$0.86], or a greater amount for any year provided by appropriation.

SECTION 65. Chapter 42, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL FINANCE WEIGHTS, ALLOTMENTS, AND ADJUSTMENTS

Sec. 42.451. SELECT COMMITTEE ON PUBLIC SCHOOL FINANCE WEIGHTS, ALLOTMENTS, AND ADJUSTMENTS. (a) The Select Committee on Public School Finance Weights, Allotments, and Adjustments is established to conduct a comprehensive review of weights, allotments, and adjustments under the public school finance system, including all current weights, allotments, and adjustments provided under this chapter and any additional weights, allotments, and adjustments recommended by the committee.

(b) The committee is composed of 15 members appointed as follows:

- (1) four members of the senate, appointed by the lieutenant governor;
- (2) four members of the house of representatives, appointed by the speaker of the house of representatives;
- (3) the commissioner of education;
- (4) one person currently employed at a primary or secondary school in this state and one representative of the business community, each appointed by the lieutenant governor;
- (5) one person currently employed at a primary or secondary school in this state and one representative of the business community, each appointed by the speaker of the house of representatives; and
- (6) one person currently employed at a primary or secondary school in this state and one representative from the business community, appointed by the governor.

(c) The governor, lieutenant governor, and speaker of the house of representatives shall make the appointments required by Subsection (b) in a timely fashion to permit the committee to comply with Section 42.452(a).

Sec. 42.452. COMMITTEE MEETINGS. (a) Not later than October 1, 2009, the committee shall hold an organizational meeting.

(b) The lieutenant governor and speaker of the house of representatives shall each appoint a committee member to serve as co-chair.

(c) Committee meetings shall be held at the call of the co-chairs.

Sec. 42.453. COMPENSATION AND REIMBURSEMENT. (a) A member of the committee is entitled to reimbursement for actual and necessary expenses incurred in performing committee duties.

(b) A legislative member of the committee is entitled to reimbursement from the appropriate fund of the house of the legislature in which the member serves.

(c) A member other than a legislative member is entitled to reimbursement from funds appropriated to the committee.

Sec. 42.454. COMMITTEE STAFF. (a) The co-chairs of the committee may appoint a committee director and staff to support the work of the committee.

(b) The director and staff members are employees of the Texas Legislative Council and shall be paid from funds appropriated to the council for the committee's operations.

(c) The committee may contract with one or more consultants if necessary to enable the committee to perform its duties under this subchapter.

Sec. 42.455. CONDUCT OF REVIEW. (a) The committee shall conduct public hearings throughout the state and solicit testimony about the weights, allotments, and adjustments under the finance system from parents of public school children and other interested persons. At least one public hearing must be held at a public school during a time that public school students are able to attend the hearing.

(b) The commissioner shall ensure that the committee has access to any documentation and agency personnel the committee requests.

(c) The Legislative Budget Board, the Texas Education Agency, the comptroller, the state auditor, and any other state agency, official, or personnel shall cooperate with the committee in carrying out its duties under this subchapter.

(d) The committee may coordinate the review under this subchapter with any other legislative study, as appropriate. To the extent the review duplicates the study of funding elements otherwise required by Section 42.007, the review replaces that study.

Sec. 42.455T. ADDITIONAL DUTIES. (a) The committee shall also review and identify specific short term goals that will assist the state in meeting the objectives and goals of public education. The review under this section shall include recommendations regarding:

(1) methods to close the achievement gap and define and measure readiness for college and the workforce;

(2) revisions to the public accountability system; and

(3) methods for promoting efficient and effective support structures for public schools.

(b) The commissioner of higher education serves as an ex officio member of the committee for purposes of this section.

Sec. 42.456. REPORT. (a) Not later than December 1, 2010, the committee shall provide a report that:

(1) states the findings of the review conducted under this subchapter; and

(2) includes any recommendations for statutory changes.

(b) The report must be approved by a majority of the committee members. A member who disagrees with any part of the report may attach a dissenting statement to the report.

Sec. 42.457. EXPIRATION. This subchapter expires January 11, 2011.

SECTION 66. Section 44.004, Education Code, is amended by amending Subsection (h) and adding Subsection (j) to read as follows:

(h) Notwithstanding any other provision of this section, a school district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of district property required by Section 26.01(e) [~~26.01(d)~~], Tax Code, in preparing the notice required by this section if the district does not receive on or before June 7 the certified appraisal roll for the district required by Section 26.01(a), Tax Code.

(j) Notwithstanding Subsections (g), (h), and (i), a school district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district as provided by Section 26.05(g). If a school district elects to adopt a tax rate before adopting a budget, the district must publish notice and hold a meeting for the purpose of discussing the proposed tax rate as provided by this section. Following adoption of the tax rate, the district must publish notice and hold another public meeting before the district may adopt a budget. The comptroller shall prescribe the language and format to be used in the notices. The school district may use the certified estimate of taxable value in preparing a notice under this subsection.

SECTION 67. Subchapter Z, Chapter 44, Education Code, is amended by adding Section 44.908 to read as follows:

Sec. 44.908. EXPENDITURE OF LOCAL FUNDS. (a) A school district shall adopt a policy governing the expenditure of local funds from vending machines, rentals, gate receipts, or other local sources of revenue over which the district has direct control.

(b) A policy under this section must:

(1) require discretionary expenditures of local funds to be related to the district's educational purpose and provide a commensurate benefit to the district or its students; and

(2) meet the standards of Section 52, Article III, Texas Constitution, regarding expenditure of public funds.

SECTION 68. Section 45.052, Education Code, is amended to read as follows:

Sec. 45.052. GUARANTEE. (a) On approval by the commissioner, bonds issued under Subchapter A, including refunding bonds, are guaranteed by the corpus and income of the permanent school fund.

(b) Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

SECTION 68A. Sections 45.053(a), (b), and (c), Education Code, are amended to read as follows:

(a) Except as provided by Subsection (d), the commissioner may not approve bonds for guarantee under this subchapter if the approval would result in the total amount of outstanding guaranteed bonds under this subchapter exceeding an amount equal to 2-1/2 times the cost value of the permanent school fund, as estimated by the board and certified by the state auditor.

(b) Each year, the state auditor shall analyze the status of guaranteed bonds under this subchapter as compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the amount of bonds guaranteed under this subchapter is within the limit prescribed by this section.

(c) The commissioner shall prepare and the board shall adopt an annual report on the status of the guaranteed bond program under this subchapter.

SECTION 69. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0531 to read as follows:

Sec. 45.0531. ADDITIONAL LIMITATION: RESERVATION OF PERCENTAGE OF PERMANENT SCHOOL FUND VALUE. (a) In addition to the limitation on the approval of bonds for guarantee under Section 45.053, the board by rule may establish a percentage of the cost value of the permanent school fund to be reserved from use in guaranteeing bonds under this subchapter.

(b) If the board has reserved a portion of the permanent school fund under Subsection (a), each year, the state auditor shall analyze the status of the reserved portion compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the portion of the permanent school fund reserved from use in guaranteeing bonds under this subchapter satisfies the reserve percentage established.

(c) If the board has reserved a portion of the permanent school fund under Subsection (a), the board shall at least annually consider whether to change the reserve percentage established to ensure that the reserve percentage allows compliance with federal law and regulations and serves to enable bonds guaranteed under this subchapter to receive the highest available credit rating, as determined by the board.

(d) This section may not be construed in a manner that impairs, limits, or removes the guarantee of bonds that have been approved by the commissioner.

SECTION 70. Section 45.055, Education Code, is amended to read as follows:

Sec. 45.055. APPLICATION FOR GUARANTEE. (a) A school district seeking ~~the~~ guarantee of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for guarantee under this subchapter and then, if that guarantee is rejected, for credit enhancement under Subchapter I.

(b) An ~~The~~ application under Subsection (a) must include:

(1) the name of the school district and the principal amount of the bonds to be issued;

(2) the name and address of the district's paying agent for those bonds; and

(3) the maturity schedule, estimated interest rate, and date of the bonds.

(c) An ~~The~~ application under Subsection (a) must be accompanied by a fee set by rule of the board in an amount designed to cover the costs of administering the programs to provide the guarantee or credit enhancement of eligible bonds ~~program~~.

SECTION 71. Subsection (b), Section 45.056, Education Code, is amended to read as follows:

(b) If following the investigation the commissioner is satisfied that the school district's bonds should be guaranteed under this subchapter or provided credit enhancement under Subchapter I, as applicable, the commissioner shall endorse the bonds.

SECTION 72. Section 45.061, Education Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The commissioner may order a school district to set an ad valorem tax rate capable of producing an amount of revenue sufficient to enable the district to:

(1) provide reimbursement under this section; and

(2) pay the principal of and interest on district bonds as the principal and interest become due.

(d) If a school district fails to comply with the commissioner's order under Subsection (c), the commissioner may impose any sanction on the district authorized to be imposed on a district under Subchapter G, Chapter 39, including appointment of a board of managers or annexation to another district, regardless of the district's accreditation status or the duration of a particular accreditation status.

SECTION 73. Subsection (a), Section 45.062, Education Code, is amended to read as follows:

(a) If a total of two or more payments ~~[from the permanent school fund]~~ are made under this subchapter or Subchapter I on the ~~[guaranteed]~~ bonds of a school district and the commissioner determines that the school district is acting in bad faith under the guarantee program under this subchapter or the credit enhancement program under Subchapter I, the commissioner may request the attorney general to institute appropriate legal action to compel the school district and its officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

SECTION 74. Section 45.109, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) An independent school district and an institution of higher education, as defined by Section 61.003, located wholly or partially in the boundaries of the county in which the district is located may contract for the district to contribute

district resources to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the institution of higher education. A district may contribute district resources under this subsection only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility.

(a-2) One of more independent school districts and an institution of higher education, as defined by Section 61.003, may contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility owned by or under the control of the institution of higher education. A district may contribute district resources under this subsection only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility, including authorizing the enrollment of district students in courses offered at that facility.

SECTION 75. Chapter 45, Education Code, is amended by adding Subchapters I and J to read as follows:

SUBCHAPTER I. INTERCEPT PROGRAM TO PROVIDE CREDIT
ENHANCEMENT FOR BONDS

Sec. 45.251. DEFINITIONS. In this subchapter:

(1) "Board" means the State Board of Education.

(2) "Foundation School Program" means the program established under Chapters 41, 42, and 46, or any successor program of state appropriated funding for school districts in this state.

(3) "Paying agent" means the financial institution that is designated by a school district as the district's agent for the payment of the principal of and interest on bonds for which credit enhancement is provided under this subchapter.

Sec. 45.252. INTERCEPT CREDIT ENHANCEMENT PROGRAM. (a) If a school district's application for guarantee of district bonds by the corpus and income of the permanent school fund as provided by Subchapter C is rejected, the district may apply under this subchapter for credit enhancement of bonds described by Section 45.054 by money appropriated for the Foundation School Program, other than money that is appropriated to school districts specifically:

(1) as required under the Texas Constitution; or

(2) for assistance in paying debt service.

(b) The same school district bonds may not benefit under both Subchapter C and this subchapter.

(c) Notwithstanding any amendment of this subchapter or other law, the credit enhancement provided under this subchapter for school district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

Sec. 45.253. LIMITATION ON INTERCEPT CREDIT ENHANCEMENT.

(a) In each month of each fiscal year, the commissioner shall determine the amount of funds available to make payments under this subchapter from the Foundation School Program through the end of the fiscal year and the amounts due under this code to public schools from the Foundation School Program through the end of the fiscal year. The commissioner may revise a determination under this subsection during the fiscal year as appropriate.

(b) The commissioner may not endorse particular bonds for credit enhancement under this subchapter until the commissioner has:

(1) made the determinations required under Subsection (a); and

(2) determined that the endorsement will not cause the projected debt service coming due during the remainder of the fiscal year for bonds provided credit enhancement under this subchapter to exceed the lesser of:

(A) one-half of the amount of funds due to public schools from the Foundation School Program for the remainder of the fiscal year; or

(B) one-half of the amount of funds anticipated to be on hand in the Foundation School Program to make payments for the remainder of the fiscal year.

(c) The commissioner may not endorse particular bonds for credit enhancement under this subchapter unless the commissioner has determined that the maximum annual debt service on the bonds during any state fiscal year will not exceed the lesser of:

(1) one-half of the amount of funds due to public schools from the Foundation School Program for the current fiscal year; or

(2) one-half of the amount of funds anticipated to be on hand in the Foundation School Program to make payments for the current fiscal year.

Sec. 45.254. ELIGIBILITY. To be eligible for approval by the commissioner for credit enhancement under this subchapter:

(1) bonds must be issued in the manner provided by Section 45.054;
and

(2) payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year.

Sec. 45.254I. INTERCEPT OF FOUNDATION SCHOOL PROGRAM APPROPRIATIONS AS CREDIT ENHANCEMENT. (a) Money appropriated for the Foundation School Program that may be used for the purpose under this subchapter and under any other law, rule, or regulation shall be used to provide credit enhancement for eligible bonds as provided by this subchapter, the General Appropriations Act, and board rule if using the permanent school fund to guarantee particular bonds would result in:

(1) a total amount of outstanding bonds guaranteed by the permanent school fund exceeding the amount authorized under:

(A) Section 45.053; or

(B) federal law or regulations; or

(2) the use of a portion of the cost value of the permanent school fund reserved under Section 45.0531, as determined by the board.

(b) If Foundation School Program appropriations are not sufficient in any year to pay principal or interest that becomes due on bonds for which credit enhancement is provided under this subchapter, the payment shall be made from the following year's Foundation School Program appropriations that may be used for the purpose under this subchapter before those appropriations are used for any other Foundation School Program purpose.

Sec. 45.255. APPLICATION FOR CREDIT ENHANCEMENT. (a) A school district seeking credit enhancement of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for a guarantee under Subchapter C and then, if that guarantee is rejected, for credit enhancement under this subchapter.

(b) An application under Subsection (a) must:

(1) include the information required by Section 45.055(b); and

(2) be accompanied by a fee set by board rule in an amount designed to cover the costs of administering the programs to provide the guarantee or credit enhancement of eligible bonds.

Sec. 45.256. INVESTIGATION. (a) Following receipt of an application under Section 45.255, the commissioner shall conduct an investigation of the applicant school district as provided for an investigation under Section 45.056(a).

(b) If following the investigation under Subsection (a) the commissioner is satisfied that the school district's bonds should be guaranteed under Subchapter C or provided credit enhancement under this subchapter, as applicable, the commissioner shall endorse the bonds.

Sec. 45.257. CREDIT ENHANCEMENT ENDORSEMENT. (a) The commissioner shall endorse bonds approved for credit enhancement under this subchapter in substantially the same manner provided under Section 45.057 for endorsing bonds approved under Subchapter C.

(b) The credit enhancement is not effective unless the attorney general approves the bonds under Section 45.005.

Sec. 45.258. NOTICE OF FAILURE OR INABILITY TO PAY. Immediately following a determination that a school district will be or is unable to pay maturing or matured principal or interest on a bond for which credit enhancement is provided under this subchapter, but not later than the 10th day before maturity date, the school district shall notify the commissioner.

Sec. 45.259. PAYMENT FROM INTERCEPTED FUNDS. (a) Immediately following receipt of notice under Section 45.258, the commissioner shall instruct the comptroller to transfer to the district's paying agent from appropriations to the Foundation School Program that may be used for the purpose under Section 45.252 and other law the amount necessary to pay the maturing or matured principal or interest.

(b) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount due.

(c) The procedures prescribed by Subsections (a) and (b) apply to each payment of principal or interest on bonds as the payment becomes due until the bonds mature or are defeased in accordance with state law.

(d) If money appropriated for the Foundation School Program is used for purposes of this subchapter and as a result there is insufficient money to fully fund the Foundation School Program, the commissioner shall, to the extent necessary, reduce each school district's foundation school fund allocations, other than any portion appropriated from the available school fund, in the same manner provided by Section 42.253(h) for a case in which school district entitlements exceed the amount appropriated. The following fiscal year, a district's entitlement under Section 42.253 is increased by an amount equal to the reduction under this subsection.

(e) A payment made under this section by the state on behalf of a school district of funds the district owes on bonds for which credit enhancement is provided under this subchapter creates a repayment obligation of the district to the state regardless of the maturity date of, or any payment of interest on, the bonds.

(f) This section does not create a debt of the state under the Texas Constitution or, except to the extent provided by this subchapter, create a payment obligation.

Sec. 45.260. BONDS NOT ACCELERATED ON FAILURE TO PAY. If a school district fails to pay principal or interest on a bond for which credit enhancement is provided under this subchapter when the amount matures, other amounts not yet mature are not accelerated and do not become due by virtue of the district's failure to pay amounts matured.

Sec. 45.261. REIMBURSEMENT OF FOUNDATION SCHOOL PROGRAM. (a) If the commissioner orders payment from the money appropriated to the Foundation School Program on behalf of a school district that is not required to reduce its wealth per student under Chapter 41, the commissioner shall direct the comptroller to withhold the amount paid from the first state money payable to the district. If the commissioner orders payment from the money appropriated to the Foundation School Program on behalf of a school district that is required to reduce its wealth per student under Chapter 41, the commissioner shall increase amounts due from the district under that chapter in a total amount equal to the amount of payments made on behalf of the district under this subchapter. Amounts withheld or received under this subsection shall be used for the Foundation School Program.

(b) In accordance with commissioner rules, the commissioner may authorize reimbursement of the Foundation School Program in a manner other than that provided by this section.

(c) The commissioner may order a school district to set an ad valorem tax rate capable of producing an amount of revenue sufficient to enable the district to:

(1) provide reimbursement under this section; and

(2) pay the remaining principal of and interest on the bonds as the principal and interest become due.

(d) If a school district fails to comply with the commissioner's order under Subsection (c), the commissioner may impose any sanction on the district authorized to be imposed on a district under Subchapter G, Chapter 39, including appointment of a board of managers or annexation to another district, regardless of the district's accreditation status or the duration of a particular accreditation status.

(e) Any part of a school district's tax rate attributable to producing revenue for purposes of Subsection (c)(1) is considered part of the district's:

(1) current debt rate for purposes of computing a rollback tax rate under Section 26.08, Tax Code; and

(2) interest and sinking fund tax rate.

(f) On reimbursement by a school district as required by this section, the commissioner shall pay to the district any amount withheld under this section.

Sec. 45.262. REPEATED FAILURE TO PAY. (a) If a total of two or more payments are made under Subchapter C or this subchapter on the bonds of a school district and the commissioner determines that the district is acting in bad faith under the guarantee program under Subchapter C or the credit enhancement program under this subchapter, the commissioner may request the attorney general to institute appropriate legal action to compel the district and the district's officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

(b) Jurisdiction of proceedings under this section is in district court in Travis County.

Sec. 45.263. RULES. (a) The commissioner shall adopt rules necessary for the administration of the bond credit enhancement program under this subchapter.

(b) In adopting rules under Subsection (a), the commissioner shall establish an annual deadline by which a school district must pay the debt service on bonds for which credit enhancement is provided under this subchapter. The deadline established may not be later than the 10th day before the date specified under Section 42.259 for payment to school districts of the final Foundation School Program installment for a state fiscal year.

SUBCHAPTER J. OPEN-ENROLLMENT CHARTER SCHOOL FACILITIES
CREDIT ENHANCEMENT PROGRAM

Sec. 45.301. DEFINITIONS. In this subchapter:

(1) "Charter holder" has the meaning assigned by Section 12.1012.

(2) "Program" means the open-enrollment charter school facilities credit enhancement program established under this subchapter.

Sec. 45.302. ESTABLISHMENT OF PROGRAM. (a) The commissioner by rule may establish an open-enrollment charter school facilities credit enhancement program to assist charter holders in obtaining financing for the purchase, repair, or renovation of real property, including improvements to real property, for facilities of open-enrollment charter schools.

(b) The commissioner may adopt a structure and procedures for the program that are substantially similar to the structure and procedures for the credit enhancement program for school district bonds under Subchapter I.

Sec. 45.303. LIMITATION ON PARTICIPATION; MINIMUM REQUIREMENTS FOR DEBT SERVICE RESERVE. In adopting rules under Section 45.302, the commissioner may:

(1) limit participation in the program to charter holders who hold charters for open-enrollment charter schools that meet standards established by the commissioner, including standards for financial stability, compliance with applicable state and federal program requirements, and student academic performance; and

(2) impose minimum requirements for a debt service reserve to secure repayment of obligations for which credit enhancement is provided under this subchapter.

Sec. 45.304. ALLOCATION OF PORTION OF FOUNDATION SCHOOL PROGRAM FUNDS FOR CREDIT ENHANCEMENT. (a) The commissioner may allocate not more than one percent of the amount appropriated for the Foundation School Program for purposes of the program under this subchapter.

(b) The funds allocated under this section may not be considered available for purposes of any other credit enhancement program.

(c) Only those Foundation School Program funds allocated under this section may be committed to the program under this subchapter.

Sec. 45.305. PRIVATE MATCHING FUNDS REQUIRED; USE OF OTHER STATE FUNDS. (a) The commissioner may not implement the program unless private funds in an amount at least equal to the amount of state funds allocated under Section 45.304 are obligated to the program for at least the first 10 years of the term of obligations for which credit enhancement is provided under the program.

(b) The commissioner may use state funds allocated under Section 45.304 to pay any amount due for credit enhancement under the program and, subject to the terms of the applicable private credit obligation agreement, provide for payment of private funds to the Foundation School Program in an amount equal to at least one-half of the amount of the state funds paid. The commissioner may

also use any other state funds available for the purpose to make payments under this subchapter or to reimburse the Foundation School Program for payments made under this subchapter from Foundation School Program funds.

Sec. 45.306. REPAYMENT; LIEN. (a) If a charter holder on behalf of which the state makes a payment under the program does not immediately repay the Foundation School Program the amount of the payment, the commissioner shall withhold any funds due from the state to the charter holder as necessary to recover the total amount of state and private funds paid on behalf of the charter holder under the program.

(b) If a charter holder is for any reason, including revocation or surrender of a charter or bankruptcy, unable to repay any amount due under this subchapter, any loss of funds shall be shared equally between the Foundation School Program and the person providing the private funds obligated for credit enhancement under this subchapter.

(c) A charter holder for which credit enhancement is provided under this subchapter to purchase, repair, or renovate real property for open-enrollment charter school facilities must agree to execute a lien on that real property in a form prescribed by the commissioner and approved by the attorney general to secure repayment of all amounts due to the state from the charter holder, including reimbursement of any private funds paid on behalf of an open-enrollment charter school under this subchapter.

(d) A lien under this section must be filed in the real property records of each county in which the real property is located. A lien under this section has priority over any other claim against the real property except a lien granted to the holders of obligations issued to finance the acquisition of the real property and any security interest or lien existing before credit enhancement is provided under this subchapter.

(e) The commissioner shall notify a charter holder of any amount determined to be due to the state, including federal funds. If the full amount due to the state has not been repaid or recovered by the commissioner from other funds due to the charter holder within the current and subsequent school year, the commissioner may request the attorney general to file an action to foreclose on a lien under this section. Funds recovered from foreclosure of a lien under this section shall be credited first to any security interest or lien with priority over the lien under this section, then to the charter holder's obligation under this section, and then to any other program to which the funds are due.

(f) Venue for a suit under this section is in Travis County.

Sec. 45.307. STATUS OF PROGRAM. (a) The program is separate from and does not create any claim to the credit enhancement program for school district bonds under Subchapter I.

(b) This subchapter does not create a debt of the state under the Texas Constitution or, except to the extent provided by this subchapter, create a payment obligation.

Sec. 45.308. RULES. If the commissioner establishes a program under this subchapter, the commissioner shall adopt rules to administer the program.

SECTION 76. Section 46.033, Education Code, is amended to read as follows:

Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if:

(1) the district made payments on the bonds during the final [2006-2007] school year of the preceding state fiscal biennium or taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for that school year; and

(2) the district does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds.

SECTION 77. Section 46.034(c), Education Code, is amended to read as follows:

(c) If the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the final [2006-2007] school year of the preceding state fiscal biennium or the district's audited debt service collections for that school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

SECTION 78. Section 3.005, Election Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections [Subsection] (c) and (d), an election ordered by an authority of a political subdivision shall be ordered not later than the 62nd day before election day.

(d) An election under Section 26.08, Tax Code, to ratify a tax rate adopted by the governing body of a school district under Section 26.05(g) of that code shall be ordered not later than the 30th day before election day.

SECTION 79. Section 4.008, Election Code, is amended to read as follows:

Sec. 4.008. NOTICE TO COUNTY CLERK. (a) Except as provided by Subsection (b), the [The] governing body of a political subdivision, other than a county, that orders an election shall deliver notice of the election to the county clerk of each county in which the political subdivision is located not later than the 60th day before election day.

(b) The governing body of a school district that orders an election under Section 26.08, Tax Code, to ratify an ad valorem tax rate adopted by the governing body under Section 26.05(g) of that code shall deliver notice of the election to the county clerk of each county in which the school district is located not later than the 30th day before election day.

SECTION 80. Sections 403.302(d), (i), and (j), Government Code, are amended to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

~~(5) [for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;~~

~~(6)~~ the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

~~(6)~~ ~~(7)~~ the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

~~(7)~~ ~~(8)~~ the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

~~(8)~~ ~~(9)~~ the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

~~(9)~~ ~~(10)~~ a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the

property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code;

(10) ~~[(11)]~~ the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) ~~[(12)]~~ the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) ~~[(13)]~~ the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(13) ~~[(14)]~~ the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(i) If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection ~~(d)(13)~~ ~~[(d)(14)]~~ subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection ~~(d)(13)~~ ~~[(d)(14)]~~ subtract from the market value as estimated by the comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

(j) For purposes of Chapter 42 ~~[Section 42.2511]~~, Education Code, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000;

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by **HJR 4**, 75th Legislature, Regular Session, 1997; and

(3) a final value for each school district computed on the effect of the reduction of the limitation on tax increases to reflect any reduction in the school district tax rate as provided by Section 11.26(a-1), (a-2), or (a-3), Tax Code, as applicable.

SECTION 81. Section 822.201(b), Government Code, is amended to read as follows:

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) amounts by which the member's salary is reduced under a salary reduction agreement authorized by Chapter 610;

(3) amounts that would otherwise qualify as salary and wages under Subdivision (1) but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986, if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans;

(4) performance pay awarded to an employee by a school district as part of a total compensation plan approved by the board of trustees of the district and meeting the requirements of Subsection (e);

(5) the benefit replacement pay a person earns under Subchapter H, Chapter 659, except as provided by Subsection (c);

(6) stipends paid to teachers in accordance with Section 21.410, 21.411, 21.412, or 21.413, Education Code;

(7) amounts by which the member's salary is reduced or that are deducted from the member's salary as authorized by Subchapter J, Chapter 659;

(8) a merit salary increase made under Section 51.962, Education Code;

(9) amounts received under the relevant parts of the ~~[awards for student achievement program under Subchapter N, Chapter 21, Education Code, the] educator excellence awards program under Subchapter O, Chapter 21, Education Code, or a mentoring program under Section 21.458, Education Code, that authorize [authorized] compensation for service; and~~

(10) salary amounts designated as health care supplementation by an employee under Subchapter D, Chapter 22, Education Code.

SECTION 82. Sections 825.405(a) and (b), Government Code, are amended to read as follows:

(a) For members entitled to the minimum salary for certain school personnel under Section 21.402, Education Code, and for members who would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995, the employing district shall pay the state's contribution on the portion of the member's salary that exceeds the statutory minimum salary ~~[or former statutory minimum, as applicable]~~.

(b) For purposes of this section:

(1) ~~[;]~~ the statutory minimum salary for certain school personnel under Section 21.402, Education Code, is the salary provided by that section ~~[Section 21.402 or the former Sections 16.056 and 16.058, Education Code,]~~ multiplied by the cost of education adjustment applicable under Section 42.102, Education Code, to the district in which the member is employed; and

(2) the statutory minimum salary for members who would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995, is a minimum salary computed in the same manner as the minimum salary for certain school personnel under Section 21.402, Education Code, multiplied by the cost of education adjustment applicable under Section 42.102, Education Code, to the district in which the member is employed.

SECTION 83. Section 1579.251(a), Insurance Code, is amended to read as follows:

(a) The state shall assist employees of participating school districts and charter schools in the purchase of group health coverage under this chapter by providing for each covered employee the amount of \$900 each state fiscal year or a greater amount as provided by the General Appropriations Act. The state contribution shall be distributed through the school finance formulas under Chapters 41 and 42, Education Code, and used by school districts and charter schools as provided by ~~Section [Sections 42.2514 and]~~ 42.260, Education Code.

SECTION 84. Section 1581.053(b), Insurance Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), amounts a district or school is required to use to pay contributions under a group health coverage plan for district or school employees under Section ~~[42.2514 or]~~ 42.260, Education Code, other than amounts described by Section 42.260(c)(2)(B), are not used in computing whether the district or school complies with Section 1581.052.

SECTION 85. Section 26.01(e), Tax Code, is amended to read as follows:

(e) Except as provided by Subsection (f), ~~not later than April 30 [by June 7]~~, the chief appraiser shall prepare and certify to the assessor for each county, municipality, and school district participating in the appraisal district an estimate of the taxable value of property in that taxing unit. The chief appraiser shall assist each county, municipality, and school district in determining values of property in that taxing unit for the taxing unit's budgetary purposes.

SECTION 86. Section 26.05, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding Subsection (a), the governing body of a school district that elects to adopt a tax rate before the adoption of a budget for the fiscal year that begins in the current tax year may adopt a tax rate for the current tax year before receipt of the certified appraisal roll for the school district if the chief appraiser of the appraisal district in which the school district participates has certified to the assessor for the school district an estimate of the taxable value of property in the school district as provided by Section 26.01(e). If a school district adopts a tax rate under this subsection, the effective tax rate and the rollback tax rate of the district shall be calculated based on the certified estimate of taxable value.

SECTION 87. (a) Section 26.08, Tax Code, is amended by adding Subsection (p) to read as follows:

(p) Notwithstanding Subsections (i), (n), and (o), if for the preceding tax year a school district adopted a maintenance and operations tax rate that was less than the district's effective maintenance and operations tax rate for that preceding tax year, the rollback tax rate of the district for the current tax year is calculated as if the district adopted a maintenance and operations tax rate for the preceding tax year that was equal to the district's effective maintenance and operations tax rate for that preceding tax year.

(b) Subsection (a), Section 45.001, Education Code, is amended to read as follows:

(a) The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may:

(1) issue bonds for:

(A) the construction, acquisition, and equipment of school buildings in the district;

(B) the acquisition of property or the refinancing of property financed under a contract entered under Subchapter A, Chapter 271, Local Government Code, regardless of whether payment obligations under the contract are due in the current year or a future year;

(C) the purchase of the necessary sites for school buildings; and

(D) the purchase of new school buses; and

(2) may levy, pledge, assess, and collect annual ad valorem taxes sufficient to pay the principal of and interest on the bonds as or before the principal and interest become due, subject to Section 45.003.

(c) The change in law made by this section applies to the ad valorem tax rate of a school district beginning with the 2009 tax year, except as provided by Subsection (d) of this section.

(d) If the governing body of a school district adopted an ad valorem tax rate for the school district for the 2009 tax year before the effective date of this section, the change in law made by this section applies to the ad valorem tax rate of that school district beginning with the 2010 tax year, and the law in effect when the tax rate was adopted applies to the 2009 tax year with respect to that school district.

(e) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2009.

SECTION 88. Section 31.06(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 31.061, taxes are payable only as provided by this section. A ~~[in currency of the United States. However, a]~~ collector shall ~~[may]~~ accept United States currency or a check or money order in payment of taxes~~[.]~~ and shall ~~[may]~~ accept payment by credit card or electronic funds transfer. ~~[A collector and a person may enter into an agreement under which the person pays taxes by electronic funds transfer. The agreement must:~~

~~[(1) be in writing;~~

~~[(2) be signed by the collector and the person; and~~

~~[(3) specify the means or format of payment by electronic funds transfer.]~~

SECTION 89. Section 311.013(n), Tax Code, is amended to read as follows:

(n) This subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4) ~~[(5)]~~ of that subsection. In addition to the amount otherwise required to be paid into the tax increment fund, the district shall pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is

otherwise required to pay into the fund in the year of the reduction [~~not to exceed the amount the school district realizes from the reduction in the school district's taxable value under Section 403.302(d)(5), Government Code~~].

SECTION 90. (a) Section 5, Chapter 259 (**HB 323**), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

(b) Section 547.701(e), Transportation Code, as added by Chapter 259 (**HB 323**), Acts of the 80th Legislature, Regular Session, 2007, takes effect September 1, 2009.

(c) Section 547.701, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) A school district is required to comply with Subsection (e) only to the extent that the Texas Education Agency pays or commits to pay the district for expenses incurred in complying with that subsection. The Texas Education Agency may make grants of appropriated money for the purpose of paying school districts under this subsection.

SECTION 91. (a) The commissioner of education, in collaboration with the commissioner of higher education, shall conduct a study of dual credit programs and courses. The study must focus on the costs to the state, school district, community college, and student.

(b) The commissioner of education, in collaboration with the commissioner of higher education, shall, based on the results of the study, make recommendations to the 82nd Legislature on how to provide all students with the opportunity to earn 12 semester credit hours of college credit before graduating from high school, how to ensure efficient use of state resources regarding dual credit programs and courses, and how to promote the ability of students to access quality dual credit courses.

(c) The study required by this section may be consolidated with any other appropriate study regarding dual credit programs and courses.

SECTION 92. The Texas Education Agency shall evaluate whether providers of different types of electronic courses offered through the state virtual school network established under Chapter 30A, Education Code, should receive varying amounts of state funding based on the type of course provided. Not later than January 1, 2011, the agency shall submit a report of its findings and recommendations to the legislature.

SECTION 93. The Texas Education Agency shall investigate the feasibility of making language acquisition courses available through the state virtual school network by obtaining state subscriptions or pursuing other possible means of access. Not later than January 1, 2011, the agency shall submit a report of its findings to the legislature. If the agency determines that it is feasible to make language acquisition courses available through the network, the report must include recommended mechanisms for ensuring progress towards language proficiency of students enrolled in those courses.

SECTION 94. (a) The Texas Education Agency shall investigate the feasibility of creating one or more series of courses to be provided through the state virtual school network that focus on the educational needs of students in alternative education settings, including students in disciplinary alternative education programs under Section 37.008, Education Code, students in juvenile justice alternative education programs under Section 37.011, Education Code, and students under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice. The series of courses to be investigated must include a series that would constitute a full-time

educational program, a series that would offer only supplemental courses, and a series that would offer courses through which students could recover academic credit for courses in which the students were previously unsuccessful.

(b) Not later than January 1, 2011, the agency shall submit a report of its findings to the legislature.

SECTION 95. (a) Notwithstanding any other provision of this Act, Sections 12.1331, 19.007(g), 19.009(d-2), and 21.402(c-1), Education Code, as added by this Act, are expressly contingent on a determination by the commissioner of education that payment of wage and salary increases and associated benefits required by or associated with those sections are allowable uses of federal funds received by school districts and open-enrollment charter schools under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and appropriated as part of the Foundation School Program. The commissioner may not make a determination under this subsection until the state's application to spend funds under the American Recovery and Reinvestment Act of 2009 has been approved by the United States government. The commissioner shall promptly notify school districts and open-enrollment charter schools of that determination. A determination by the commissioner under this subsection is final and may not be appealed.

(b) A school district or open-enrollment charter school may enter into an employment contract or agreement that is contingent on a determination of the commissioner of education under Subsection (a) of this section.

(c) The commissioner of education by rule may determine the applicable minimum salary schedule for use by school districts during the 2010-2011 state fiscal biennium following a determination under Subsection (a) of this section. If the commissioner determines that federal funds received by school districts and open-enrollment charter schools under the American Recovery and Reinvestment Act of 2009 may not be used for purposes of Sections 12.1331, 19.007(g), 19.009(d-2), and 21.402(c-1), Education Code, as added by this Act, those amendments have no effect in determining the salary required to be paid to an employee of a school district, including the Windham School District, or open-enrollment charter school.

SECTION 96. (a) The commissioner of education shall determine the percentage of entitlement in the foundation school program or other program that represents the use of education stabilization funds received under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5). In order to receive that percentage of total funds available to a school district or open-enrollment charter school under the foundation school program or other program, a district or school may be required to apply to the commissioner using an application developed by the commissioner. The commissioner may require an applicant to make assurances as to the use and monitoring of funds applied for or other requirements, consistent with the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

(b) If any of the funds received by the state under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) that were appropriated for the purpose of funding the foundation school program or other program are determined to be unavailable temporarily or permanently for that purpose, the commissioner shall reduce the total amount of funds to which a district or school is entitled under Chapters 41 and 42, Education Code, or other programs

proportional to the percentage determined under Subsection (a) of this section. A reduction in funding under this subsection does not increase the entitlement of a district or school in any subsequent year.

(c) This section applies to funding provided under Chapters 41 and 42, Education Code, as amended by this Act, for the 2009-2010 and 2010-2011 school years. A decision by the commissioner under this section is final and may not be appealed.

SECTION 97. For purposes of interpreting and implementing Section 825.406, Government Code, the Teacher Retirement System of Texas may not consider salaries of personnel paid in whole or in part from education stabilization funds distributed to school districts under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) as being paid from federal funds.

SECTION 98. The commissioner of education shall provide school districts with the maximum flexibility permitted under federal law in the administration of education stabilization funds distributed under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

SECTION 99. Section 42.2516(b)(3), Education Code, as amended by this Act, applies as if that subdivision were in effect in the state fiscal year beginning September 1, 2006, and any amounts due a district under that subdivision for the state fiscal years beginning September 1, 2006, September 1, 2007, and September 1, 2008, shall be paid to the district in the state fiscal year beginning September 1, 2009, at the time payments are made to the district under Section 42.259(f), Education Code.

SECTION 100. Section 44.004, Education Code, Sections 3.005 and 4.008, Election Code, and Sections 26.01 and 26.05, Tax Code, as amended by this Act, apply only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 101. To the extent of any conflict, this Act prevails over **SB 1969**, Acts of the 81st Legislature, Regular Session, 2009.

SECTION 102. Sections 29.018, Education Code, as added by this Act, does not make an appropriation. A provision in that section that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made specific appropriation to implement that provision.

SECTION 103. Section 44.908, Education Code, as added by this Act, applies to any expenditure of campus discretionary funds that occurs on or after September 1, 2009, regardless of the date on which the funds were raised.

SECTION 104. (a) The following provisions of the Education Code are repealed:

- (1) Subchapter N, Chapter 21;
- (2) Sections 21.704(b) and 29.909;
- (3) Subsection (d), Section 30A.151;
- (4) Sections 30A.153 and 30A.154;
- (5) Sections 39.024(e), 39.114(c), and 42.103(e);
- (6) Sections 42.152(e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (t), and (u); and
- (7) Sections 42.2511, 42.2512, and 42.2514.

(b) Subchapter C, Chapter 1581, Insurance Code, is repealed.

(c) Section 2, Chapter 1191 (**HB 828**), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

(d) Section 3, Chapter 1337 (**SB 1788**), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

(e) Section 40, Chapter 1504 (**HB 6**), Acts of the 77th Legislature, Regular Session, 2001, is repealed.

SECTION 105. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

HB 3646 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GIDDINGS: You and I have been discussing some concerns that we have in Dallas—our school district personnel have been in touch with us. I think, perhaps, you and I have concluded that there is a misread of the bill someplace, and I just wanted to clarify that. From my discussion with you, there is nothing in the bill that mandates the district to give a step increase the second year. They just have to maintain the increase that they've given in the first year. Is that right?

REPRESENTATIVE HOCHBERG: That's my understanding of the bill, yes, ma'am.

GIDDINGS: Okay, I just wanted to clarify that because you and I have had that discussion, and it continues to be a concern for the Dallas Independent School District. For legislative intent, I just want to make sure there's nothing in the bill that mandates a step increase the second year. Thank you for your work, Mr. Hochberg.

HOCHBERG: Thank you, Ms. Giddings, and if any of your folks in Dallas have some particular questions about particular words that we can handle in a technical correction tomorrow, we would be happy to do that.

REMARKS ORDERED PRINTED

Representative Giddings moved to print remarks between Representative Hochberg and Representative Giddings.

The motion prevailed.

Representative Hochberg moved to adopt the conference committee report on **HB 3646**.

The motion to adopt the conference committee report on **HB 3646** prevailed by (Record 1712): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio;

Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel.

Absent — Pierson.

STATEMENT OF VOTE

When Record No. 1712 was taken, I was temporarily out of the house chamber. I would have voted yes.

Pierson

LEAVE OF ABSENCE GRANTED

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

Pierson on motion of S. King.

HR 2925 - ADOPTED (by Branch)

The following privileged resolution was laid before the house:

HR 2925

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 51** (measures to enhance and maintain the quality of state universities, including funding and incentives to support emerging public research universities, to the abolition of the higher education fund, to the institutional groupings under the Texas Higher Education Coordinating Board's accountability system, to the independent status of Lamar Institute of Technology, to research conducted by public universities and other state entities, and to the authorization of revenue bonds for certain institutions of higher education) to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following new SECTIONS to the bill:

SECTION 2. Subchapter B, Chapter 55, Education Code, is amended by adding Sections 55.1771 and 55.17721 to read as follows:

Sec. 55.1771. TEXAS A&M UNIVERSITY AT GALVESTON. (a) In addition to the other authority granted by this subchapter and subject to the other provisions of this section, the board of regents of The Texas A&M University

System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for Texas A&M University at Galveston for an erosion control breakwater, a dock, or any other related purpose reasonably necessary to assist the institution to recover from any damage or other impact caused by Hurricane Ike, to be financed by the issuance of bonds in accordance with this subchapter, including bonds issued in accordance with a systemwide revenue financing program and secured as provided by that program, in an aggregate principal amount not to exceed \$5 million.

(b) The board of regents may pledge irrevocably to the payment of the bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of The Texas A&M University System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board of regents to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of The Texas A&M University System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

Sec. 55.17721. THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON. (a) In addition to the other authority granted by this subchapter and subject to the other provisions of this section, the board of regents of The University of Texas System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for The University of Texas Medical Branch at Galveston for any purpose reasonably necessary to assist the institution to recover from any damage or other impact caused by Hurricane Ike, to be financed by the issuance of bonds in accordance with this subchapter, including bonds issued in accordance with a systemwide revenue financing program and secured as provided by that program, in an aggregate principal amount not to exceed \$150 million.

(b) The board may pledge irrevocably to the payment of the bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of The University of Texas System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of The University of Texas System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

(d) Any transfer of funds to the board pursuant to an appropriation of state funds to the board or The University of Texas Medical Branch at Galveston for the purpose of reimbursing the board for all or part of the debt service on bonds

issued under this section is subject to the prior approval of the Legislative Budget Board. In determining whether to approve a transfer of state funds for that purpose, the Legislative Budget Board shall consider:

(1) whether the commissioners court of the county in which the medical branch is located has entered into an agreement with the board under which the county agrees to reimburse the board for all or part of any otherwise unreimbursed costs incurred by the medical branch to provide health care services to individuals who are residents of the county and whose net family income is not more than 100 percent of the federal poverty level; or

(2) whether the county in which the medical branch is located or a hospital district that includes that county imposes an ad valorem tax for health care purposes.

(e) For purposes of Subsection (d), the county of residence of an individual is determined in the same manner as provided by Chapter 61, Health and Safety Code.

SECTION 3. Section 61.0572(e), Education Code, is amended to read as follows:

(e) Approval of the board is not required to acquire real property that is financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.1735(a)(1), 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, ~~or~~ 55.1768, 55.1771, or 55.17721, except that the board shall review all real property to be financed by bonds issued under those sections to determine whether the property meets the standards adopted by the board for cost, efficiency, and space use. If the property does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

SECTION 4. Section 61.058(b), Education Code, is amended to read as follows:

(b) This section does not apply to construction, repair, or rehabilitation financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, ~~or~~ 55.1768, 55.1771, or 55.17721, except that the board shall review all construction, repair, or rehabilitation to be financed by bonds issued under those sections to determine whether the construction, rehabilitation, or repair meets the standards adopted by board rule for cost, efficiency, and space use. If the construction, rehabilitation, or repair does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

Explanation: This addition is necessary to enable the governing boards of Texas A&M University at Galveston and The University of Texas Medical Branch at Galveston to issue tuition revenue bonds to finance capital improvements at those institutions that are reasonably necessary to assist the institutions in recovering from any damage or other impact caused by Hurricane Ike.

HR 2925 was adopted by (Record 1713): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Christian; Giddings; Hamilton.

HB 51 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Branch submitted the following conference committee report on **HB 51**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 51** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Zaffirini	Branch
Williams	McCall
Duncan	Cohen
Van de Putte	Eiland
Watson	Madden
On the part of the senate	On the part of the house

HB 51, A bill to be entitled An Act relating to measures to enhance and maintain the quality of state universities, including funding and incentives to support emerging public research universities, to the abolition of the higher education fund, to the institutional groupings under the Texas Higher Education

Coordinating Board's accountability system, to the independent status of Lamar Institute of Technology, to research conducted by public universities and other state entities, and to the authorization of revenue bonds for certain institutions of higher education.

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

SECTION 1. Subchapter G, Chapter 51, Education Code, is amended by adding Section 51.358 to read as follows:

Sec. 51.358. LONG-TERM STRATEGIC PLAN FOR RESEARCH UNIVERSITY OR EMERGING RESEARCH UNIVERSITY. (a) The governing board of each institution of higher education designated as a research university or emerging research university under the Texas Higher Education Coordinating Board's accountability system shall submit to the coordinating board, in the form and manner prescribed by the coordinating board, a detailed, long-term strategic plan documenting the strategy by which the institution intends to achieve recognition as a research university, or enhance the university's reputation as a research university, as applicable.

(b) The Texas Higher Education Coordinating Board shall adopt rules for the administration of this section.

SECTION 2. Subchapter B, Chapter 55, Education Code, is amended by adding Sections 55.1771 and 55.17721 to read as follows:

Sec. 55.1771. TEXAS A&M UNIVERSITY AT GALVESTON. (a) In addition to the other authority granted by this subchapter and subject to the other provisions of this section, the board of regents of The Texas A&M University System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for Texas A&M University at Galveston for an erosion control breakwater, a dock, or any other related purpose reasonably necessary to assist the institution to recover from any damage or other impact caused by Hurricane Ike, to be financed by the issuance of bonds in accordance with this subchapter, including bonds issued in accordance with a systemwide revenue financing program and secured as provided by that program, in an aggregate principal amount not to exceed \$5 million.

(b) The board of regents may pledge irrevocably to the payment of the bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of The Texas A&M University System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board of regents to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of The Texas A&M University System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

Sec. 55.17721. THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON. (a) In addition to the other authority granted by this subchapter and subject to the other provisions of this section, the board of regents of The

University of Texas System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for The University of Texas Medical Branch at Galveston for any purpose reasonably necessary to assist the institution to recover from any damage or other impact caused by Hurricane Ike, to be financed by the issuance of bonds in accordance with this subchapter, including bonds issued in accordance with a systemwide revenue financing program and secured as provided by that program, in an aggregate principal amount not to exceed \$150 million.

(b) The board may pledge irrevocably to the payment of the bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of The University of Texas System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of The University of Texas System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

(d) Any transfer of funds to the board pursuant to an appropriation of state funds to the board or The University of Texas Medical Branch at Galveston for the purpose of reimbursing the board for all or part of the debt service on bonds issued under this section is subject to the prior approval of the Legislative Budget Board. In determining whether to approve a transfer of state funds for that purpose, the Legislative Budget Board shall consider:

(1) whether the commissioners court of the county in which the medical branch is located has entered into an agreement with the board under which the county agrees to reimburse the board for all or part of any otherwise unreimbursed costs incurred by the medical branch to provide health care services to individuals who are residents of the county and whose net family income is not more than 100 percent of the federal poverty level; or

(2) whether the county in which the medical branch is located or a hospital district that includes that county imposes an ad valorem tax for health care purposes.

(e) For purposes of Subsection (d), the county of residence of an individual is determined in the same manner as provided by Chapter 61, Health and Safety Code.

SECTION 3. Section 61.0572(e), Education Code, is amended to read as follows:

(e) Approval of the board is not required to acquire real property that is financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.1735(a)(1), 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, ~~55.1768~~, 55.1771, or 55.17721, except that the board shall review all real property to be financed by bonds issued under those sections to determine whether the property meets the standards adopted by the board for

cost, efficiency, and space use. If the property does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

SECTION 4. Section 61.058(b), Education Code, is amended to read as follows:

(b) This section does not apply to construction, repair, or rehabilitation financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, ~~(e)~~ 55.1768, 55.1771, or 55.17721, except that the board shall review all construction, repair, or rehabilitation to be financed by bonds issued under those sections to determine whether the construction, rehabilitation, or repair meets the standards adopted by board rule for cost, efficiency, and space use. If the construction, rehabilitation, or repair does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

SECTION 5. Section 61.059, Education Code, is amended by adding Subsection (o) to read as follows:

(o) In addition to the other funding recommendations required by this section, biennially the board shall determine the amount that the board considers appropriate for purposes of providing funding under Section 61.0596 in the following state fiscal biennium to carry out the purposes of that section and shall make recommendations to the governor and the Legislative Budget Board for funding those programs in that biennium. To the extent the board considers appropriate, the board may include in the formulas established under this section the funding to be provided under Section 61.0596.

SECTION 6. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0596 to read as follows:

Sec. 61.0596. UNIVERSITY FUNDING FOR EXCELLENCE IN SPECIFIC PROGRAMS AND FIELDS; INCENTIVE GRANTS. (a) The board shall administer this section to encourage and assist general academic teaching institutions, other than public state colleges, that are not research universities or emerging research universities according to the institutional groupings under the board's higher education accountability system to develop and maintain specific programs or fields of study of the highest national rank or recognition for that type of program or field.

(b) To assist the institution in achieving the highest national rank or recognition for the applicable degree program and from money available for the purpose, the board shall award incentive grants to general academic teaching institutions described by Subsection (a) that the board considers to have demonstrated the greatest commitment to success in developing or improving, consistent with the mission of the institution, the quality of an existing degree program designated by the institution. An institution must use a grant under this subsection for faculty recruitment or other faculty support with respect to the designated degree program for which the grant is awarded, including establishment of endowed faculty positions or enhancement of faculty compensation as considered appropriate by the institution.

(c) An institution may designate only one degree program at a time for consideration for new funding under Subsection (b). The institution may change its designation with the consent of the board. If the board determines that an institution has met all the applicable benchmarks for the institution's designated program, the institution may designate another degree program for consideration for new funding under Subsection (b).

(d) The board shall establish a series of benchmarks applicable to each degree program designated by an institution under this section. The institution becomes eligible for funding under Subsection (b) for each benchmark the board determines that the institution has met. The board shall establish the amount of funding for each benchmark met in a manner that provides an effective incentive to assist the institution to continue its efforts to meet the remaining benchmarks for its designated program.

(e) Unless the board determines that a different number of benchmarks is appropriate, the board shall establish three benchmarks for each designated degree program. The board shall identify one or more persons who have relevant expertise and do not reside in this state to assist the board in establishing the benchmarks and associated funding levels for each type of degree program designated by an institution under this section.

(f) An institution that designates a degree program to receive funding under Subsection (b) shall reimburse the board for the costs incurred by the board in administering this section with respect to the institution's designated program.

(g) In addition to supporting the programs designated by institutions for consideration to receive incentive grants under Subsection (b), from money available for the purpose, the board shall provide additional money as the board determines appropriate to assist the institutions described by Subsection (a) in maintaining the excellence of programs or fields of study that have achieved the highest national ranking or recognition for that type of program or field.

(h) The legislature may not appropriate money for grants or other financial assistance to general academic teaching institutions under this section before the board certifies that one or more institutions have met at least one of the benchmarks established by the board for the institutions' designated degree programs under Subsection (d).

SECTION 7. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0904 to read as follows:

Sec. 61.0904. REVIEW OF INSTITUTIONAL GROUPINGS. At least once every 10 years, the board shall conduct a review of the institutional groupings under the board's accountability system, including a review of the criteria for and definitions assigned to those groupings.

SECTION 8. The heading to Chapter 62, Education Code, is amended to read as follows:

CHAPTER 62. CONSTITUTIONAL AND STATUTORY ~~[DIVISION OF CONSTITUTIONALLY APPROPRIATED]~~ FUNDS TO SUPPORT ~~[AMONG CERTAIN]~~ INSTITUTIONS OF HIGHER EDUCATION~~[-RESEARCH DEVELOPMENT FUND]~~

SECTION 9. Section 62.003(1), Education Code, is amended to read as follows:

(1) Except as otherwise provided by Subchapters C, D, F, and G, "eligible ~~["Eligible"]~~ institution" means the eligible agencies and institutions of higher education listed in Article VII, Section 17(b), of the Constitution of Texas, and any institution or agency of higher education that is later made eligible to participate in the disbursement of funds pursuant to Article VII, Section 17(c), of the Constitution of Texas.

SECTION 10. Section 62.021, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (e), and (f) to read as follows:

(a) In each state fiscal year beginning with the state fiscal year ending August 31, 2011 ~~[2008]~~, an eligible institution is entitled to receive an amount allocated in accordance with this section from the funds appropriated for that year by Section 17(a), Article VII, Texas Constitution. The comptroller shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Section 403.071, Government Code. An eligible institution may not present a claim to be paid ~~[The comptroller may not issue a warrant]~~ from any funds allocated under this subsection before the delivery of goods or services described in Section 17, Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes or for a payment for a book or other published library material as authorized by Section 2155.386, Government Code. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, and a separate allocation for the Texas State Technical College System. The annual amounts allocated by the formula are as follows:

- (1) \$3,559,433 ~~[\$3,434,348]~~ to Midwestern State University;
- (2) \$27,846,476 ~~[\$26,137,233]~~ to the University of North Texas;
- (3) \$8,771,265 ~~[\$8,139,391]~~ to the University of North Texas Health Science Center at Fort Worth;
- (4) \$12,311,123 ~~[\$12,882,348]~~ to The University of Texas–Pan American;
- (5) \$5,057,420 ~~[\$4,186,790]~~ to The University of Texas at Brownsville;
- (6) \$8,425,937 ~~[\$7,025,771]~~ to Stephen F. Austin State University;
- (7) to the following component institutions of the Texas State University System:
 - (A) \$8,330,933 ~~[\$11,210,508]~~ to Lamar University;
 - (B) \$2,332,463 to the Lamar Institute of Technology;
 - (C) \$1,235,752 ~~[\$1,115,048]~~ to Lamar State College–Orange;
 - (D) \$1,244,694 ~~[(C) \$1,190,119]~~ to Lamar State College–Port Arthur;

University; (E) \$11,893,110 [~~(D) \$9,916,306~~] to Sam Houston State

Marcos; (F) \$21,863,258 [~~(E) \$19,799,276~~] to Texas State University–San

Grande College; (G) \$1,625,061 [~~(F) \$2,043,772~~] to Sul Ross State University; and
(H) \$445,380 [~~(G) \$379,831~~] to Sul Ross State University–Rio

(8) \$8,894,700 [~~\$11,156,463~~] to Texas Southern University;

(9) to the following component institutions of the Texas Tech University System:

(A) \$23,936,088 [~~\$26,829,477~~] to Texas Tech University;

(B) \$16,973,569 [~~\$17,849,441~~] to Texas Tech University Health Sciences Center; and

(C) \$3,743,027 [~~\$3,585,802~~] to Angelo State University;

(10) \$10,169,695 [~~\$8,424,209~~] to Texas Woman's University;

(11) to the following component institutions of the University of Houston System:

(A) \$35,885,768 [~~\$35,276,140~~] to the University of Houston;

(B) \$2,393,921 [~~\$2,282,883~~] to the University of Houston–Victoria;

(C) \$5,214,167 [~~\$6,001,337~~] to the University of Houston–Clear Lake; and

(D) \$7,435,238 [~~\$9,628,151~~] to the University of Houston–Downtown;

(12) to the following component institutions of The Texas A&M University System:

(A) \$7,139,067 [~~\$8,278,993~~] to Texas A&M University–Corpus Christi;

(B) \$3,796,436 [~~\$3,130,211~~] to Texas A&M International University;

(C) \$5,046,885 [~~\$5,052,232~~] to Texas A&M University–Kingsville;

(D) \$4,652,995 [~~\$4,776,890~~] to West Texas A&M University;

(E) \$5,193,232 [~~\$5,345,678~~] to Texas A&M University–Commerce; and

(F) \$1,307,907 [~~\$1,646,352~~] to Texas A&M University–Texarkana; and

(13) \$5,775,000 to the Texas State Technical College System Administration and the following component campuses, but not its extension centers or programs:

(A) Texas State Technical College–Harlingen;

(B) Texas State Technical College–Marshall;

(C) Texas State Technical College–West Texas; and

(D) Texas State Technical College–Waco.

(a-1) This subsection applies only to the state fiscal years ending August 31, 2009, and August 31, 2010, and is intended as a correction necessary to ensure an equitable distribution of the funds appropriated by Section 17(a), Article VII, Texas Constitution, for the five-year period ending August 31, 2010, in accordance with the equitable formula prescribed by Section 17(d), Article VII, Texas Constitution. In each state fiscal year to which this subsection applies, an eligible institution is entitled to receive an amount allocated in accordance with this subsection from the funds appropriated for each of those years by Section 17(a), Article VII, Texas Constitution. The comptroller shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Section 403.071, Government Code. An eligible institution may not present a claim to be paid from any funds allocated under this subsection before the delivery of goods or services described in Section 17, Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes or for a payment for a book or other published library material as authorized by Section 2155.386, Government Code. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, and a separate allocation for the Texas State Technical College System. The annual amounts allocated by the formula are as follows:

- (1) \$3,810,377 to Midwestern State University;
- (2) \$27,122,687 to the University of North Texas;
- (3) \$7,994,676 to the University of North Texas Health Science Center

at Fort Worth;

- (4) \$13,176,800 to The University of Texas–Pan American;
- (5) \$4,284,677 to The University of Texas at Brownsville;
- (6) \$6,907,643 to Stephen F. Austin State University;
- (7) to the following component institutions of the Texas State

University System:

- (A) \$8,028,333 to Lamar University;
- (B) \$1,825,332 to the Lamar Institute of Technology;
- (C) \$1,140,745 to Lamar State College–Orange;
- (D) \$1,217,124 to Lamar State College–Port Arthur;
- (E) \$10,184,001 to Sam Houston State University;
- (F) \$20,258,248 to Texas State University–San Marcos;
- (G) \$2,090,896 to Sul Ross State University; and
- (H) \$388,203 to Sul Ross State University–Rio Grande College;

- (8) \$11,283,387 to Texas Southern University;
- (9) to the following component institutions of the Texas Tech

University System:

- (A) \$27,446,656 to Texas Tech University;
- (B) \$14,854,762 to Texas Tech University Health Sciences Center;

and

- (C) \$3,667,497 to Angelo State University;
- (10) \$8,615,167 to Texas Woman's University;

(11) to the following component institutions of the University of Houston System:

- (A) \$36,091,538 to the University of Houston;
- (B) \$2,335,692 to the University of Houston–Victoria;
- (C) \$5,355,874 to the University of Houston–Clear Lake; and
- (D) \$9,548,995 to the University of Houston–Downtown;

(12) to the following component institutions of The Texas A&M University System:

- (A) \$8,471,116 to Texas A&M University–Corpus Christi;
- (B) \$3,202,241 to Texas A&M International University;
- (C) \$5,167,540 to Texas A&M University–Kingsville;
- (D) \$4,886,159 to West Texas A&M University;
- (E) \$5,684,047 to Texas A&M University–Commerce; and
- (F) \$1,684,587 to Texas A&M University–Texarkana; and

(13) \$5,775,000 to the Texas State Technical College System Administration and the following component campuses, but not its extension centers or programs:

- (A) Texas State Technical College–Harlingen;
- (B) Texas State Technical College–Marshall;
- (C) Texas State Technical College–West Texas; and
- (D) Texas State Technical College–Waco.

(a-2) This subsection and Subsection (a-1) expire September 1, 2010.

(e) Whereas the University of North Texas at Dallas was created as an institution of higher education by Chapter 25 (SB 576), Acts of the 77th Legislature, Regular Session, 2001, which was approved by a vote of more than two-thirds of the membership of each house of the legislature, the University of North Texas at Dallas is entitled to participate in the funding provided by Section 17, Article VII, Texas Constitution, as soon as the University of North Texas at Dallas operates as a general academic teaching institution.

(f) Pursuant to the annual allocation amounts shown in Subsections (a) and (a-1) for each year of the remaining 10-year allocation period established under Section 17(d), Article VII, Texas Constitution, that ends in 2015, the comptroller shall distribute to the Lamar Institute of Technology a portion of the total annual appropriation under Section 17(a), Article VII, Texas Constitution.

SECTION 11. Section 62.024, Education Code, is amended to read as follows:

Sec. 62.024. AMOUNT OF ALLOCATION INCREASED. In accordance with Section 17(a), Article VII, Texas Constitution, for each state fiscal year beginning with the state fiscal year ending August 31, 2008, the amount of the annual constitutional appropriation under that subsection is increased to \$262.5 million. [~~Before the state fiscal year ending August 31, 2008, the amount of the annual constitutional appropriation under that subsection is \$175 million.~~]

SECTION 12. Chapter 62, Education Code, is amended by adding Subchapters C, D, and F to read as follows:

SUBCHAPTER C. RESEARCH UNIVERSITY DEVELOPMENT FUND

Sec. 62.051. DEFINITIONS. In this subchapter:

(1) "Eligible institution" means an institution of higher education designated as a research university or emerging research university under the coordinating board's accountability system.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

Sec. 62.052. PURPOSE. The purpose of this subchapter is to provide funding to research universities and emerging research universities for the recruitment and retention of highly qualified faculty and the enhancement of research productivity at those universities.

Sec. 62.053. FUNDING. (a) For each state fiscal year, the coordinating board shall distribute any funds appropriated by the legislature for the purposes of this subchapter, and any other funds made available for the purposes of this subchapter, to eligible institutions based on the average amount of total research funds expended by each institution annually during the three most recent state fiscal years, according to the following rates:

(1) at least \$1 million for every \$10 million of the average annual amount of those research funds expended by the institution, if that average amount for the institution is \$50 million or more; and

(2) at least \$500,000 for every \$10 million of the average annual amount of those research funds expended by the institution, if that average amount for the institution is less than \$50 million.

(b) For purposes of Subsection (a), the amount of total research funds expended by an eligible institution in a state fiscal year is the amount of those funds as reported to the coordinating board by the institution for that fiscal year, subject to any adjustment by the coordinating board in accordance with the standards and accounting methods the coordinating board prescribes for purposes of this section. If the funds available for distribution for a state fiscal year under Subsection (a) are not sufficient to provide the amount specified by Subsection (a) for each eligible institution or exceed the amount sufficient for that purpose, the available amount shall be distributed in proportion to the total amount to which each institution is otherwise entitled under Subsection (a).

Sec. 62.054. RULES. The coordinating board shall adopt rules for the administration of this subchapter, including any rules the coordinating board considers necessary regarding the submission to the coordinating board by eligible institutions of any student data required for the coordinating board to carry out its duties under this subchapter.

SUBCHAPTER D. PERFORMANCE INCENTIVE FUNDING

Sec. 62.071. DEFINITIONS. In this subchapter:

(1) "At-risk student" means an undergraduate student of an eligible institution:

(A) whose score on the Scholastic Assessment Test (SAT) or the American College Test (ACT) is less than the national mean score of students' scores on that test;

(B) who has been awarded a grant under the federal Pell Grant program;

(C) who was 20 years of age or older on the date the student initially enrolled in the institution;

(D) who is enrolled as a part-time student; or

(E) who did not receive a high school diploma but received a high school equivalency certificate within the last six years.

(2) "Critical field" means:

(A) the field of engineering, computer science, mathematics, physical science, allied health, nursing, or teacher certification in a field of science or mathematics; and

(B) any other field of study identified as a critical field by the coordinating board in "Closing the Gaps," the state's master plan for higher education.

(3) "Eligible institution" means a general academic teaching institution other than a public state college.

(4) "General academic teaching institution" and "public state college" have the meanings assigned by Section 61.003.

Sec. 62.072. FUNDING. (a) For each state fiscal year, the coordinating board shall distribute any performance incentive funds appropriated by the legislature for purposes of this subchapter, and any other funds made available for the purposes of this subchapter, to eligible institutions as follows:

(1) 50 percent to be distributed among eligible institutions in proportion to the increase, if any, in the average number of degrees awarded annually by each institution in the two most recent fiscal years from the average number of degrees awarded annually by that institution in the two fiscal years immediately preceding those fiscal years, using the weights assigned to each degree under the table prescribed by Subsection (b); and

(2) the remaining 50 percent to be distributed among eligible institutions in proportion to the average number of degrees awarded annually by each institution in the three most recent fiscal years, using the weights assigned to each degree under the table prescribed by Subsection (b).

(b) A number of points is assigned for each degree awarded by an eligible institution according to the following table:

	POINTS
<u>Noncritical Field/Not At-Risk Student</u>	<u>1.0</u>
<u>Noncritical Field/At-Risk Student</u>	<u>2.0</u>
<u>Critical Field/Not At-Risk Student</u>	<u>2.0</u>
<u>Critical Field/At-Risk Student</u>	<u>3.0</u>

Sec. 62.073. RULES. The coordinating board shall adopt rules for the administration of this subchapter, including any rules the coordinating board considers necessary regarding the submission to the coordinating board by eligible institutions of any student data required for the coordinating board to carry out its duties under this subchapter.

SUBCHAPTER F. TEXAS RESEARCH INCENTIVE PROGRAM (TRIP)

Sec. 62.121. DEFINITIONS. In this subchapter:

(1) "Eligible institution" means an institution of higher education designated as an emerging research university under the coordinating board's accountability system.

(2) "Gift" includes cash, cash equivalents, marketable securities, closely held securities, money market holdings, partnership interests, personal property, real property, minerals, and life insurance proceeds.

(3) "Institution of higher education" has the meaning assigned by Section 61.003.

(4) "Program" means the Texas Research Incentive Program (TRIP) established under this subchapter.

Sec. 62.122. PROGRAM ADMINISTRATION. The coordinating board shall develop and administer the Texas Research Incentive Program (TRIP) in accordance with this subchapter to provide matching funds to assist eligible institutions in leveraging private gifts for the enhancement of research productivity and faculty recruitment.

Sec. 62.123. MATCHING GRANTS. (a) An eligible institution that receives gifts or endowments from private sources in a state fiscal year for the purpose of enhancing research activities at the institution, including a gift or endowment for endowed chairs, professorships, facilities, equipment, program costs, or graduate stipends or fellowships, is entitled to receive, out of funds appropriated for the purposes of the program for that fiscal year, a matching grant in an amount determined according to the following rates:

(1) 50 percent of the amount of the gifts and endowments, if the total amount of gifts and endowments is \$100,000 or more but not more than \$999,999;

(2) 75 percent of the amount of the gifts and endowments, if the total amount of gifts and endowments is \$1 million or more but not more than \$1,999,999; or

(3) 100 percent of the amount of the gifts and endowments, if the total amount of gifts and endowments is \$2 million or more.

(b) An eligible institution is not entitled to matching funds under the program for:

(1) a gift that has been pledged but has not been received by the institution;

(2) a gift for undergraduate scholarships or grants; or

(3) any portion of gifts or endowments received by the institution from a single source in a state fiscal year in excess of \$10 million.

(c) The coordinating board shall establish procedures for the certification by the coordinating board of an eligible institution's receipt of a qualifying gift or endowment. A cash gift or endowment must be certified as of the date the gift or endowment was deposited by the institution in a depository bank or invested by the institution as authorized by law. A non-cash gift must be certified as of the date the gift is converted to cash, and is considered to have been received on that date for purposes of this subchapter.

(d) If the funds appropriated for the program for a state fiscal year are insufficient to provide matching grants in the amounts specified by this section for all qualifying private gifts and endowments received by eligible institutions during that fiscal year, the coordinating board shall provide matching grants for those gifts and endowments in order of their certification date, and shall provide matching grants for any remaining unmatched gifts and endowments in the following fiscal year using funds appropriated to the program for that following year, to the extent funds are available.

(e) Matching grants received by an eligible institution under this section may not be considered as a basis to reduce, directly or indirectly, the amount of money otherwise appropriated to the institution.

Sec. 62.124. RULES. The coordinating board shall adopt rules for the administration of this subchapter.

SECTION 13. Chapter 62, Education Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. NATIONAL RESEARCH UNIVERSITY FUND

Sec. 62.141. PURPOSE. The purpose of this subchapter is to allocate appropriations from the national research university fund to provide a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve national prominence as major research universities.

Sec. 62.142. DEFINITIONS. In this subchapter:

(1) "Eligible institution" means a general academic teaching institution that is eligible to receive distributions of money under this subchapter.

(2) "Endowment funds" means funds treated as endowment funds under the coordinating board's accountability system.

(3) "Fund" means the national research university fund.

(4) "General academic teaching institution" has the meaning assigned by Section 61.003.

Sec. 62.143. ADMINISTRATION AND INVESTMENT OF FUND. (a) The national research university fund is a fund outside the state treasury in the custody of the comptroller.

(b) The comptroller shall administer and invest the fund in accordance with Section 20, Article VII, Texas Constitution.

Sec. 62.144. FUNDING. (a) The fund consists of any amounts appropriated or transferred to the credit of the fund under the Texas Constitution or otherwise appropriated or transferred to the credit of the fund under this section or another law.

(b) The comptroller shall deposit to the credit of the fund all interest, dividends, and other income earned from investment of the fund.

(c) The comptroller may accept gifts or grants from any public or private source for the fund.

Sec. 62.145. ELIGIBILITY TO RECEIVE DISTRIBUTIONS FROM FUND. (a) A general academic teaching institution is eligible to receive a distribution of money under this subchapter for each year of a state fiscal biennium if:

(1) the institution is designated as an emerging research university under the coordinating board's accountability system;

(2) in each of the two state fiscal years preceding the state fiscal biennium, the institution expended at least \$45 million in restricted research funds; and

(3) the institution satisfies at least four of the following criteria:

(A) the value of the institution's endowment funds is at least \$400 million;

(B) the institution awarded at least 200 doctor of philosophy degrees during each of the two academic years preceding the state fiscal biennium;

(C) the entering freshman class of the institution for each of those two academic years demonstrated high academic achievement, as determined according to standards prescribed by the coordinating board by rule, giving consideration to the future educational needs of the state as articulated in the coordinating board's "Closing the Gaps" report;

(D) the institution is designated as a member of the Association of Research Libraries or has a Phi Beta Kappa chapter or has received an equivalent recognition of research capabilities and scholarly attainment as determined according to standards prescribed by the coordinating board by rule;

(E) the faculty of the institution for each of those two academic years was of high quality, as determined according to coordinating board standards based on the professional achievement and recognition of the institution's faculty, including the election of faculty members to national academies; and

(F) the institution has demonstrated a commitment to high-quality graduate education, as determined according to standards prescribed by the coordinating board by rule, including the number of graduate-level programs at the institution, the institution's admission standards for graduate programs, and the level of institutional support for graduate students.

(b) A general academic teaching institution that becomes eligible to receive a distribution of money under this subchapter remains eligible to receive a distribution in each subsequent state fiscal year.

Sec. 62.146. ACCOUNTING STANDARDS; VERIFICATION OF INFORMATION. (a) The coordinating board by rule shall prescribe standard methods of accounting and standard methods of reporting information for the purpose of determining the eligibility of institutions under Section 62.145.

(b) As soon as practicable in each even-numbered year, based on information submitted by the institutions to the coordinating board as required by the coordinating board, the coordinating board shall certify to the legislature verified information relating to the criteria established by Section 62.145 to be used to determine which institutions are initially eligible for distributions of money from the fund. Information submitted to the coordinating board by institutions for purposes of this subchapter and the coordinating board's certification of that information under this subsection are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 62.147. INELIGIBILITY OF INSTITUTIONS RECEIVING PERMANENT UNIVERSITY FUND SUPPORT AND MAINTENANCE. The University of Texas at Austin and Texas A&M University are ineligible to receive money under this subchapter.

Sec. 62.148. ALLOCATION OF APPROPRIATED FUNDS TO ELIGIBLE INSTITUTIONS. In each state fiscal year, the comptroller shall distribute to eligible institutions the total amount appropriated from the fund for that fiscal year. The amount shall be allocated to the eligible institutions based on an equitable formula adopted by the legislature to carry out the purposes of the fund as established by Section 20, Article VII, Texas Constitution. In adopting the allocation formula, the legislature may consider the recommendations of the coordinating board, including recommendations on the appropriate elements and relative weights of elements of the formula.

Sec. 62.149. USE OF ALLOCATED AMOUNTS. (a) An eligible institution may use money received under this subchapter only for the support and maintenance of educational and general activities that promote increased research capacity at the institution.

(b) For purposes of Subsection (a), the use of money shall be limited to the following permitted activities:

(1) providing faculty support and paying faculty salaries;

(2) purchasing equipment or library materials;

(3) paying graduate stipends; and

(4) supporting research performed at the institution, including undergraduate research.

(c) Money received in a fiscal year by an institution under this subchapter that is not used in that fiscal year by the institution may be held and used by the institution in subsequent fiscal years for the purposes prescribed by this section.

SECTION 14. Section 62.094, Education Code, is amended to read as follows:

Sec. 62.094. FUNDING. (a) The research development fund consists of the ~~[amount deposited to the credit of the fund under Section 62.025 in each state fiscal year, the amount appropriated or transferred to the credit of the fund by the legislature under Subsection (b), and any other]~~ amounts appropriated or transferred to the credit of the fund under this section or other law.

~~(b) [In each state fiscal year, the legislature may appropriate or provide for the transfer to the credit of the research development fund of an amount not less than the amount deposited to the credit of the fund under Section 62.025 in that fiscal year.~~

~~(c)~~ The comptroller shall deposit all interest, dividends, and other income earned from investment of the research development fund to the credit of the fund.

~~(c)~~ ~~(d)~~ The comptroller may accept gifts or grants from any public or private source for the research development fund.

SECTION 15. Section 96.703(a), Education Code, is amended to read as follows:

(a) In the city of Beaumont, the [The] board shall establish and maintain a lower-division institution of higher education [an educational center of Lamar University] as a separate degree-granting institution to be known as Lamar Institute of Technology.

SECTION 16. Sections 62.025 and 62.026, Education Code, are repealed.

SECTION 17. Section 96.703(c), Education Code, is repealed.

SECTION 18. INTERIM STUDY REGARDING TECHNOLOGY RESEARCH DATA COLLECTION. (a) A select interim committee is created to study the feasibility of collecting data and maintaining a searchable electronic database, search engine, or other collection of data (data collection) relating to specialized technology research projects that are developed or conducted at public universities in this state, research facilities of public universities in this state, or other facilities operated by a state agency, in order to facilitate coordination among the universities and facilities on the projects and improve access to and awareness of the specialized research and technologies developed at those institutions and facilities.

(b) The study must consider:

(1) appropriate entities to administer the data collection, including nonprofit organizations, public universities in this state, or state agencies;

(2) the extent of legislative oversight required for an entity that would maintain the data collection;

(3) compliance with state and federal laws regarding access to public information; and

(4) the information the data collection would include, such as:

(A) a list of projects involving one or more of the following areas:

(i) energy research, including methods of creation, storage, distribution, and conservation of energy;

(ii) biomedical science research, including research that involves stem cells or human cloning;

(iii) nanotechnology research, including nanomedicine; and

(iv) other specialized technology research;

(B) for each project listed under Paragraph (A) of this subdivision, a brief description of the project, including the field of technology involved, the entity involved with the project, and additional comments regarding the research the Texas Higher Education Coordinating Board considers appropriate; and

(C) other relevant information and available resources in this state relating to specialized technology research, including:

(i) expert faculty or research personnel;

(ii) available technology and patents obtained;

(iii) the location of and policies for the use of available research equipment;

(iv) public grants or contracts awarded; and

(v) the process through which any stem cells and stem cell lines utilized were derived.

(c) The study shall examine the current state of access to public information about specialized technology research projects and shall assess the best methods of facilitating access to the information. In addition, the study shall consider what information should be accessible by the general public and what information, if any, should have restricted access.

(d) The committee shall be composed of:

(1) representatives of the following institutions, with one member named by each institution: The University of Texas at Austin, Texas A&M University, Texas Tech University, the University of Houston, the University of North Texas, The University of Texas at Arlington, The University of Texas at Dallas, The University of Texas at El Paso, and The University of Texas at San Antonio; and

(2) a number of members appointed by the Texas Higher Education Coordinating Board as the coordinating board considers appropriate to represent the coordinating board, data collection providers, and the technology industry.

(e) On the request of the committee, a general academic institution of higher education, research facility of a general academic institution of higher education, or other facility operated by a state agency shall provide to the Texas Higher Education Coordinating Board or advisory committee any information necessary for the board or advisory committee to perform its duties under this section.

(f) Not later than December 1, 2010, the committee shall report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor. The committee shall include in its recommendations specific legislation that the committee considers desirable to address the need for and feasibility of establishing a data collection as determined by the committee's findings.

(g) The committee is abolished and this section expires January 16, 2011.

SECTION 19. (a) The Texas Higher Education Coordinating Board, in consultation with institutions of higher education that are eligible institutions under Subchapter C, Chapter 62, Education Code, as added by this Act, shall study and make recommendations regarding the appropriate definitions and categories of research expenditures to be included and applied in determining an institution's eligibility for and distributions from the Research University Development Fund.

(b) Not later than December 1, 2010, the coordinating board shall report its study and deliver its recommendations to the:

- (1) governor;
- (2) lieutenant governor;
- (3) speaker of the house of representatives;
- (4) chair of the Senate Committee on Finance;
- (5) chair of the Senate Committee on Higher Education;
- (6) chair of the House Committee on Appropriations; and
- (7) chair of the House Committee on Higher Education.

(c) At the request of an institution of higher education that consults with the coordinating board under this section, the coordinating board shall include with its recommendations the written response of the institution to those recommendations.

SECTION 20. The Texas Higher Education Coordinating Board shall adopt rules relating to the administration of Subchapters C, D, F, and G, Chapter 62, Education Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 21. (a) Except as provided by Subsections (b), (c), (d), and (e) of this section, this Act takes effect September 1, 2009.

(b) Money may not be appropriated to or distributed from the research university development fund under Subchapter C, Chapter 62, Education Code, as added by this Act, or the national research university fund under Subchapter G, Chapter 62, Education Code, as added by this Act, before the state fiscal biennium that begins September 1, 2011.

(c) The funding for Section 13 of this Act is contingent on the approval by the voters of the constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund. If that constitutional amendment is not approved by the voters, Sections 14 and 16 of this Act do not take effect.

(d) This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in a general appropriations act of the 81st Legislature.

(e) The sections of this Act amending Sections 62.021 and 62.024, Education Code, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, those sections take effect September 1, 2009. Subsection (d) of this section does not apply to the sections of this Act that amend Sections 62.021 and 62.024, Education Code.

HB 51 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BRANCH: Members, this is the conference committee report on **HB 51**. This is, as you recall, the—I don't have the easel up, but the chart. This is our major tier one universities bill, which has passed unanimously from the house and the senate. There were a couple pre-cleared senate amendments rolled in. The first was a technical change to tighten the purposes for which universities can use funds allocated by the bill. That means they have to use them for research-related areas. The second was a long listing of amounts of money for the five year reallocation of the HEAF funds. The third was, the conference committee report also included language to clarify that Lamar Institutes inside the HEAF allocation. And finally, there's a coordinating board study to aid in the creation of a database and search engine that collects information about research going on in the state.

Members, I've got the whole committee up here from Higher Education, and I want to thank them for their efforts and you all for your efforts. This is our major, major initiative in the State of Texas to encourage more high demand venues so we won't have the problems we've realized under top 10. This will change our state and make us competitive with states like California and New York, and I encourage your support and can't thank my committee and members from Houston and El Paso and San Antonio and Lubbock and Dallas and Austin and all around the state—East Texas—that will change hopefully our state looking out 10 years. And this is one of those real privileges to be able to carry this legislation, and I thank you.

REPRESENTATIVE Y. DAVIS: My question has to do with the privileged resolution, so you might want to let Speaker Eiland be recognized. I want to talk about this, because I think it's important that members realize that, while this is important legislation, we need to be very careful about the approach we're taking with regard to the privileged resolution that's attached to this bill.

BRANCH: Absolutely.

Y. DAVIS: And I want to have that discussion, because I think that if we do nothing else, we ought to make sure we protect the process so that we know how we spend and appropriate money, and to what extent the process is going to be tainted by the appearance that we're circumventing it with this kind of resolution.

BRANCH: Absolutely, I'll yield to Mr. Eiland. Let me say that we could have passed this two days ago, but we slowed it down and put the bill at risk in order to help Galveston and their situation. I'll let Mr. Eiland explain the details, but really the only reason we're doing this tonight and not 48 hours ago was to try to be helpful to Galveston and Houston. Houston is really suffering because of the lack of hospitals in Galveston and the trauma centers situation. I know that Ms. Riddle was saying they're on drive-by status at one of their hospitals, so this was really an effort to help the Gulf Coast region.

Y. DAVIS: And I appreciate that, Chairman Branch, because I know how important it is that we create a level of healthcare in all the communities around the state so that it doesn't shift from one to the other. But, I think in doing so, we need to be very careful that we don't do other things that would create other problems in the future. So, I wanted to have a conversation with Speaker Eiland in reference to the privileged resolution and what it means, and how it gets here, because through all the appropriations process we have continuously been told how we go through the process and how rigorous that process is and how important it is to protect the process as it relates to the money. So, would you agree, to have a privileged resolution like this on the floor, authorizing the kind of money or the \$150 million for TRBs, is an unusual kind of resolution?

SPEAKER PRO TEMPORE EILAND: Yes, it is.

Y. DAVIS: I jokingly ask you this—if someone asks me how did you get it done, and they wondered if it was because you were the speaker pro tempore or if you're just a good legislator, skilled enough to figure out how to get around the

appropriations process. I've told them that this is something, based on our conversation, that was already pre-approved in the appropriations process, is that correct?

SPEAKER PRO TEMPORE: That's right, Ms. Davis, and if you remember, when the supplemental appropriations bill left the house, it had \$300 million in it for UTMB. When the supplemental appropriations bill came to the floor two days ago, I spoke on the bill and told the body to make sure that they were aware that \$150 million had been taken out of the supplemental appropriations bill. Cash had been taken out so that, in the supplemental appropriations bill, other things could be done, like the state employee pay raise or bonus of \$88 million. In the senate, they put that \$150 million into a tuition revenue bond in the fiscal matters bill, and the same thing for A&M-Galveston—it's \$5 million, so it's much less. It was also in the supplemental bill. It was taken out and given a tuition revenue bond in the fiscal matters bill. So, it has gone through the appropriations process, and through the conference committee, and the fiscal matters bill that listed these two TRBs was on the calendar and died on the Major State Calendar before we could get to it on midnight a couple of days ago. So that's when I warned the body—not warned the body, but raised the body's awareness, when the supplemental bill came here—that UTMB was not funded, that it was part of a \$1.3 billion plan, and that I was going to be trying to find somewhere that it would fit as a vehicle and that's what—

Y. DAVIS: And I just want to be clear about the significance and importance of this, being that we're trying to rebuild a community in our state, and I think all of us share your concern and your commitment to do that. But I want to also make sure you understand that many of us lose bills on the legislative process, is that correct?

SPEAKER PRO TEMPORE: Yes, you are correct.

Y. DAVIS: Many of us lose bills that are important in terms of what they will do for our district as well, would you agree with that?

SPEAKER PRO TEMPORE: Yes, and I lost some too.

Y. DAVIS: And we don't have the luxury in most instances to come back with a resolution like this. This is, again, a unique situation, wouldn't you agree?

SPEAKER PRO TEMPORE: And that is why I brought it to the body's attention when the supplemental bill was over here two days ago, so that everybody knows. So I wasn't sneaking anything by anybody, and so everybody knew that I was looking. I told everybody, so that everybody would be hopefully—because a lot of people had inquired of me lately, have you found anywhere to get it in, and I finally told them yes, we found a place.

Y. DAVIS: And I guess probably, Speaker Eiland, had it been on the appropriations bill, the supplemental appropriations bill that Chairman Pitts had, it probably would make more sense in terms of us recognizing this was something held over from the appropriations process. It had been vetted, rather than it being on this bill that dealt with no appropriations at this point.

SPEAKER PRO TEMPORE: That's why I wanted to make sure that members knew that this \$150 million had been through this house before as cash and was coming back as a tuition revenue bond.

Y. DAVIS: Just clarify, if you will, the level of funding we provided to UTMB or to UT-Galveston. If you will, explain what the commitment has been to the state so that we'll have a clear understanding of how much is invested in this community, so that one doesn't lose sight that it is an investment for this state to make to this community.

SPEAKER PRO TEMPORE: Yes. We worked out a plan after Galveston went down with The University of Texas Board of Regents, who were thinking about moving the hospital to the mainland, and was thinking about basically changing its entire character to being a for-profit hospital that saw only insured patients. We changed their mind by putting together a plan with state dollars, federal dollars, local charity dollars, and UT System dollars. And that breakdown is this: \$150 million cash from the state, which was in the supplemental bill. That will be matched by FEMA with \$450 million. That's going to harden the campus, raise it, just like we did the medical center in Houston after Tropical Storm Allison. That's \$600 million. Then the Sealy & Smith Foundation of Galveston said if the state will put up \$200 million, we will put up \$200 million. The state \$200 million is made up of this \$150 million tuition revenue bond, and another \$50 million in social services block grant funding that came down from the Feds to the state last fall after the storms. That \$200 million is part of this—TRB is part of that \$200 million. It'll be matched by the Sealy & Smith Foundation. The UT System then said that if you do that, we will then authorize another \$200 million in bonds further down the road. We also tried to get our DISH and UPL money, which would have been another \$136 million, but we got \$96 million instead. The UT System said we will stick with the deal even though you're, in essence, all totalling about \$14 million short of a \$1.3 billion plan.

Y. DAVIS: I guess the most important thing—I know people are questioning why I had a problem with this bill. I want to be clear that there was not a problem with the bill, but would you agree that I said to you earlier, and continuously, this was a problem with the process in which we were dealing with it?

REMARKS ORDERED PRINTED

Representative Y. Davis moved to print remarks between the speaker pro tempore and Representative Y. Davis.

The motion prevailed.

Representative Madden moved to print all remarks on **HB 51**.

The motion prevailed.

Representative Branch moved to adopt the conference committee report on **HB 51**.

The motion to adopt the conference committee report on **HB 51** prevailed by (Record 1714): 141 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Herrero; Hunter; Lewis; Ortiz.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Truitt.

REMARKS

REPRESENTATIVE RIDDLE: Mr. Speaker, I would like to express to you and to the body that Representative Branch this evening has shown more political courage and purely political guts than I have ever seen from any representative in my time here, and I want to express my thank you personally to him, and from the entire Houston delegation. Thank you.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 6).

HB 1795 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the following conference committee report on **HB 1795**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1795** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Uresti

Huffman

Zaffirini

Pierson

Eiland

McCall

Zerwas

Gonzales

On the part of the senate

On the part of the house

HB 1795, A bill to be entitled An Act relating to newborn screening and the creation of the Newborn Screening Advisory Committee.

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

SECTION 1. This Act may be cited as "Greyson's Law" in memory of Greyson Morris.

SECTION 2. Section 33.011(a-1), Health and Safety Code, is amended to read as follows:

(a-1) Except as provided by this subsection and to ~~the~~ the extent funding is available for the screening, the department shall require newborn screening tests to screen for disorders listed in the core ~~uniform~~ panel and in the secondary targets of the uniform newborn screening panel ~~conditions~~ recommended in the 2005 report by the American College of Medical Genetics entitled "Newborn Screening: Toward a Uniform Screening Panel and System" or another report determined by the department to provide more stringent ~~more appropriate~~ newborn screening guidelines to protect the health and welfare of this state's newborns. The department, with the advice of the Newborn Screening Advisory Committee, may require additional newborn screening tests under this subsection to screen for other disorders or conditions. The department may exclude from the newborn screening tests required under this subsection screenings for galactose epimerase and galactokinase.

SECTION 3. Subchapter B, Chapter 33, Health and Safety Code, is amended by adding Section 33.017 to read as follows:

Sec. 33.017. NEWBORN SCREENING ADVISORY COMMITTEE. (a) The department shall establish the Newborn Screening Advisory Committee.

(b) The advisory committee consists of members appointed by the commissioner of state health services. The advisory committee must include the following members:

(1) health care providers;

(2) a hospital representative;

(3) persons who have family members affected by a condition for which newborn screening is or may be required under this subchapter; and

(4) persons who are involved in the delivery of newborn screening services, follow-up, or treatment in this state.

(c) The advisory committee shall advise the department regarding strategic planning, policy, rules, and services related to newborn screening and additional newborn screening tests.

(d) The advisory committee shall adopt bylaws governing the committee's operations.

(e) The advisory committee may appoint subcommittees.

(f) The advisory committee shall meet at least three times each year and at other times at the call of the commissioner of state health services.

(g) A member of the advisory committee is not entitled to compensation, but is entitled to reimbursement for travel or other expenses incurred by the member while conducting the business of the advisory committee, as provided by the General Appropriations Act.

(h) The advisory committee is not subject to Chapter 2110, Government Code.

SECTION 4. (a) As soon as practicable after the effective date of this Act, the commissioner of state health services shall appoint members to the Newborn Screening Advisory Committee as required under Section 33.017, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 33.011, Health and Safety Code, as amended by this Act, a physician or person attending the delivery of a newborn child is not required to subject the child to the additional newborn screening tests required under Section 33.011(a-1), Health and Safety Code, as amended by this Act, until January 1, 2010.

SECTION 5. The heading to Section 81.090, Health and Safety Code, is amended to read as follows:

Sec. 81.090. DIAGNOSTIC [SEROLOGIC] TESTING DURING PREGNANCY AND AFTER BIRTH.

SECTION 6. Section 81.090, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (i), (j), (k), and (l) and adding Subsections (a-1), (c-1), and (c-2) to read as follows:

(a) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:

(1) take or cause to be taken a sample of the woman's blood or other appropriate specimen at the first examination and visit;

(2) submit the sample to an appropriately certified [a] laboratory [approved under this section] for diagnostic testing approved by the United States Food and Drug Administration for:

(A) [a standard serologic test for] syphilis [approved by the board];

(B) [a standard serologic test for] HIV infection [approved by the board]; and

(C) [a standard serologic test for] hepatitis B infection [approved by the board]; and

(3) retain a report of each case for nine months and deliver the report to any successor in the case.

(a-1) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:

(1) take or cause to be taken a sample of the woman's blood or other appropriate specimen at an examination in the third trimester of the pregnancy;

(2) submit the sample to an appropriately certified laboratory for a diagnostic test approved by the United States Food and Drug Administration for HIV infection; and

(3) retain a report of each case for nine months and deliver the report to any successor in the case.

(b) A successor is presumed to have complied with this section if the successor in good faith obtains a record that indicates compliance with Subsections (a) and (a-1), if applicable.

(c) A physician or other person in attendance at a delivery shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the mother on admission for delivery; and

(2) submit the sample to an appropriately certified [a] laboratory [approved under this section] for diagnostic testing approved by the United States Food and Drug Administration for:

(A) [a standard serologic test for] syphilis [approved by the board]; and

(B) [a standard serologic test for HIV infection approved by the board; and

[(C) a standard serologic test for] hepatitis B infection [approved by the board].

(c-1) If the physician or other person in attendance at the delivery does not find in the woman's medical records results from the diagnostic test for HIV infection performed under Subsection (a-1), the physician or person shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the mother;

(2) submit the sample to an appropriately certified laboratory for diagnostic testing approved by the United States Food and Drug Administration for HIV infection; and

(3) instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted.

(c-2) If the physician or other person in attendance at the delivery does not find in the woman's medical records results from a diagnostic test for HIV infection performed under Subsection (a-1), and the diagnostic test for HIV infection was not performed before delivery under Subsection (c-1), the physician or other person in attendance at delivery shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the newborn child less than two hours after the time of birth;

(2) submit the sample to an appropriately certified laboratory for a diagnostic test approved by the United States Food and Drug Administration for HIV infection; and

(3) instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted.

(i) Before conducting or causing to be conducted a diagnostic [standard serologic] test for HIV infection under this section, the physician or other person shall advise the woman that the result of a test taken under this section is confidential as provided by Subchapter F, but that the test is not anonymous. The

physician or other person shall explain the difference between a confidential and an anonymous test to the woman and that an anonymous test may be available from another entity. The physician or other person shall make the information available in another language, if needed, and if resources permit. The information shall be provided by the physician or another person, as needed, in a manner and in terms understandable to a person who may be illiterate if resources permit.

(j) The result of a ~~[standard]~~ test for HIV infection under Subsection (a)(2)(B), (a-1), (c-1), or (c-2) ~~[(e)(2)(B)]~~ is a test result for purposes of Subchapter F.

(k) Before the ~~[blood]~~ sample is taken, the health care provider shall distribute to the patient printed materials about AIDS, HIV, hepatitis B, and syphilis. A health care provider shall verbally notify the patient that an HIV test shall be performed if the patient does not object. If the patient objects, the patient shall be referred to an anonymous testing facility or instructed about anonymous testing methods. The health care provider shall note on the medical records that the distribution of printed materials was made and that verbal notification was given. The materials shall be provided to the health care provider by the department [Texas Department of Health] and shall be prepared and designed to inform the patients about:

(1) the incidence and mode of transmission of AIDS, HIV, hepatitis B, and syphilis;

(2) how being infected with HIV, AIDS, hepatitis B, or syphilis could affect the health of their child;

(3) the available cure for syphilis;

(4) the available treatment to prevent maternal-infant HIV transmission;

and

(5) methods to prevent the transmission of the HIV virus, hepatitis B, and syphilis.

(l) A physician or other person may not conduct a diagnostic ~~[standard]~~ test for HIV infection under Subsection (a)(2)(B), (a-1), or (c-1) ~~[(e)(2)(B)]~~ if the woman objects. A physician or other person may not conduct a diagnostic test for HIV infection under Subsection (c-2) if a parent, managing conservator, or guardian objects.

SECTION 7. Sections 81.090(d), (e), (f), and (h), Health and Safety Code, are repealed.

SECTION 8. (a) Sections 81.090(a), (c), (i), and (k), Health and Safety Code, as amended by this Act, apply only to a test performed on or after the effective date of this Act. A test performed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Sections 81.090(a-1), (c-1), and (c-2), Health and Safety Code, as added by this Act, and Sections 81.090(b), (j), and (l), Health and Safety Code, as amended by this Act, apply only to a physician or other person attending a pregnant woman during gestation or at delivery of an infant on or after January 1, 2010.

SECTION 9. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

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

Representative McCall moved to adopt the conference committee report on **HB 1795**.

The motion to adopt the conference committee report on **HB 1795** prevailed by (Record 1715): 134 Yeas, 8 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Burnam; Button; Callegari; Castro; Chavez; Cohen; Coleman; Cook; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Bonnen; Chisum; Christian; Craddick; Flynn; Legler; Phillips; Weber.

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

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Brown, F.; Gonzalez Toureilles; King, P.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1715. I intended to vote no.

Paxton

When Record No. 1715 was taken, I was excused because of important business. Had I been, present I would have voted yes.

Pierson

HB 2374 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 2374**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
 President of the Senate

The Honorable Joe Straus
 Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2374** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Lucio	Guillen
Duncan	Berman
Estes	Chisum
Seliger	Martinez Fischer
Zaffirini	Ritter
On the part of the senate	On the part of the house

HB 2374, A bill to be entitled An Act relating to financial assistance by the Texas Water Development Board for the connection of residences in economically distressed areas to public water supply and sanitary sewer systems.

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

SECTION 1. Subchapter K, Chapter 17, Water Code, is amended by adding Section 17.9225 to read as follows:

Sec. 17.9225. RESIDENTIAL WATER AND SEWER CONNECTION ASSISTANCE. (a) The legislature finds that, due to public health and sanitation concerns, it is in the public interest to use funds in the economically distressed areas account to provide financial assistance for the costs associated with the initial connection to public water supply and sanitary sewer systems of residences that otherwise benefit from financial assistance.

(b) A political subdivision may use financial assistance to pay:

(1) the costs of connecting a residence to a public water supply system constructed with financial assistance;

(2) the costs of installing yard water service connections;

(3) the costs of installing indoor plumbing facilities and fixtures;

(4) the costs of connecting a residence to a sanitary sewer system constructed with financial assistance;

(5) necessary connection and permit fees; and

(6) necessary costs related to the design of plumbing improvements described by this subsection.

(c) Assistance under this section shall only be provided to residents who demonstrate an inability to pay for the improvements described in Subsection (b) in accordance with board rules. If the board determines that a resident to whom assistance has been provided is ineligible to receive the assistance, the board may seek reimbursement from the resident. The board shall adopt rules to implement the provisions of this section.

SECTION 2. This Act takes effect September 1, 2009.

Representative Guillen moved to adopt the conference committee report on **HB 2374**.

The motion to adopt the conference committee report on **HB 2374** prevailed by (Record 1716): 83 Yeas, 59 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Kent; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Ortiz; Patrick; Peña; Pickett; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Strama; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycoc; Bohac; Bonnen; Branch; Brown, B.; Button; Chisum; Christian; Cook; Corte; Crabb; Craddick; Creighton; Driver; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Hartnett; Hilderbran; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Madden; McCall; Merritt; Miller, D.; Morrison; Orr; Otto; Parker; Paxton; Phillips; Pitts; Riddle; Sheffield; Shelton; Smith, T.; Solomons; Swinford; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Bolton; Brown, F.; Harper-Brown; Howard, C.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1716. I intended to vote no.

Crownover

I was shown voting yes on Record No. 1716. I intended to vote no.

Hopson

I was shown voting yes on Record No. 1716. I intended to vote no.

Taylor

HB 4244 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the following conference committee report on **HB 4244**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4244** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Zaffirini
 Seliger
 Uresti

Hochberg
 Aycock
 S. King
 Morrison
 Villarreal

On the part of the senate

On the part of the house

HB 4244, A bill to be entitled An Act relating to certain competitive scholarship recipients at public institutions of higher education.

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

SECTION 1. Section 51.969(c), Education Code, as added by Chapter 422 (**SB 1325**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(c) Before receiving [~~A person applying for~~] a scholarship originating from and administered by an institution of higher education or university system, a person must file a written statement with the institution or system [the application] indicating whether the person is related within the third degree by consanguinity or the second degree by affinity to a current member of the governing board of the institution or system.

SECTION 2. Section 54.064, Education Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) An institution of higher education may charge a nonresident [A] student who holds a competitive scholarship of at least \$1,000 for the academic year or summer term for which the student is enrolled resident tuition and fees [and who is either a nonresident or a citizen of a country other than the United States of America is entitled to pay the fees and charges required of Texas residents] without regard to the length of time the student has resided in Texas. The student must compete with other students, including Texas residents, for the scholarship and the scholarship must be awarded by a scholarship committee officially recognized by the administration and be approved by the Texas Higher Education Coordinating Board under criteria developed by the coordinating board.

(c) A student who would be entitled to pay resident tuition in the 2009-2010 academic year under this section as this section existed on January 1, 2009, because the student is awarded a competitive scholarship for that academic year in the amount prescribed by Subsection (a) before the beginning of the 2009 fall semester is entitled to continue to pay resident tuition under this section as this section existed on January 1, 2009, in each semester or other term in which the student is awarded such a scholarship, as long as the student remains enrolled in the same certificate or degree program. This subsection expires August 1, 2014.

(d) The difference between tuition charged to the student under this section and the tuition the student would be charged if this section did not apply to the student shall not be accounted for in such a way as to reduce the general revenue appropriation to an institution of higher education that charges a nonresident student resident tuition and fees under this section.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Representative Hochberg moved to adopt the conference committee report on **HB 4244**.

The motion to adopt the conference committee report on **HB 4244** prevailed by (Record 1717): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Pierson.

HB 4833 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hunter submitted the following conference committee report on **HB 4833**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 4833** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth
 Duncan
 Hinojosa
 Ellis
 Harris

Hunter
 Hughes
 Martinez
 Leibowitz
 Craddick
 On the part of the house

HB 4833, A bill to be entitled An Act relating to the creation of district courts and statutory county courts and to the composition of juvenile boards in certain counties.

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

SECTION 1. Section 24.212(b), Government Code, is amended to read as follows:

(b) The terms of the 110th District Court begin[

~~(1) in each county [Briscoe County]~~ on the first Mondays in January and July ~~[June;~~

~~(2) in Dickens County on the first Mondays in April and November;~~

~~(3) in Floyd County on the first Mondays in February and July; and~~

~~(4) in Motley County on the first Mondays in March and August].~~

SECTION 2. (a) Effective January 1, 2011, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.575 to read as follows:

Sec. 24.575. 431ST JUDICIAL DISTRICT (DENTON COUNTY). The 431st Judicial District is composed of Denton County.

(b) The 431st Judicial District is created on January 1, 2011.

SECTION 3. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.576 to read as follows:

Sec. 24.576. 432ND JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 432nd Judicial District is composed of Tarrant County.

(b) The 432nd District Court shall give preference to criminal matters.

(b) The 432nd Judicial District is created on the effective date of this Act.

SECTION 4. (a) Effective October 1, 2009, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.580 to read as follows:

Sec. 24.580. 436TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 436th Judicial District is composed of Bexar County.

(b) The 436th District Court shall give preference to juvenile matters.

(b) The 436th Judicial District is created on October 1, 2009.

SECTION 5. (a) Effective December 15, 2009, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.581 to read as follows:

Sec. 24.581. 437TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 437th Judicial District is composed of Bexar County.

(b) The 437th District Court shall give preference to criminal matters.

(b) The 437th Judicial District is created on December 15, 2009.

SECTION 6. (a) Effective September 1, 2010, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.582 to read as follows:

Sec. 24.582. 438TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 438th Judicial District is composed of Bexar County.

(b) The 438th District Court shall give preference to civil matters.

(b) The 438th Judicial District is created on September 1, 2010.

SECTION 7. (a) Effective November 1, 2010, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.583 to read as follows:

Sec. 24.583. 439TH JUDICIAL DISTRICT (ROCKWALL COUNTY). The 439th Judicial District is composed of Rockwall County.

(b) The 439th Judicial District is created on November 1, 2010.

SECTION 8. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.585 to read as follows:

Sec. 24.585. 441ST JUDICIAL DISTRICT (MIDLAND COUNTY). The 441st Judicial District is composed of Midland County.

(b) The 441st Judicial District is created on the effective date of this Act.

SECTION 9. (a) Section 25.0171(b), Government Code, is amended to read as follows:

(b) Bexar County has the following county courts at law:

- (1) County Court at Law No. 1 of Bexar County, Texas;
- (2) County Court at Law No. 2 of Bexar County, Texas;
- (3) County Court at Law No. 3 of Bexar County, Texas;
- (4) County Court at Law No. 4 of Bexar County, Texas;
- (5) County Court at Law No. 5 of Bexar County, Texas;
- (6) County Court at Law No. 6 of Bexar County, Texas;
- (7) County Court at Law No. 7 of Bexar County, Texas;
- (8) County Court at Law No. 8 of Bexar County, Texas;
- (9) County Court at Law No. 9 of Bexar County, Texas;
- (10) County Court at Law No. 10 of Bexar County, Texas;
- (11) County Court at Law No. 11 of Bexar County, Texas; ~~and~~
- (12) County Court at Law No. 12 of Bexar County, Texas;
- (13) County Court at Law No. 13 of Bexar County, Texas;
- (14) County Court at Law No. 14 of Bexar County, Texas; and
- (15) County Court at Law No. 15 of Bexar County, Texas.

(b) Section 25.0172, Government Code, is amended by adding Subsection (c-1) and amending Subsections (d), (l), (n), (o), (u), and (v) to read as follows:

(c-1) The County Court at Law No. 13 of Bexar County, Texas, shall give preference to cases prosecuted under:

(1) Section 22.01, Penal Code, in which the victim is a person whose relationship to or association with the defendant is described by Chapter 71, Family Code; and

(2) Section 25.07, Penal Code.

(d) The County Courts at Law Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, ~~and~~ 12, 13, 14, and 15 have six terms of court beginning on the first Mondays in January, March, May, July, September, and November. The County Court at Law No. 2 has six terms of court beginning on the first Mondays in February, April, June, August, October, and December.

(l) If the judge of the County Court at Law No. 4, 6, 7, 8, 9, 10, 11, ~~or~~ 12, 13, 14, or 15 is absent, disabled, or disqualified from presiding, a special judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. A special judge must take the oath of office required by law for the regular judge. A special judge has the power and jurisdiction of the court and of the regular judge for whom the special judge is sitting and may sign orders, judgments, decrees, and other process of any kind as "Judge Presiding." A special judge is entitled to receive for services performed the same amount of compensation as the regular judge, to be paid out of county funds. The compensation paid a special judge may not be deducted from the salary of the regular judge.

(n) The criminal district attorney shall attend the County Court at Law No. 4, 6, 7, 8, 9, 10, 11, ~~or~~ 12, 13, 14, or 15 as required by the judge. The criminal district attorney serves the county courts at law as provided by Section 25.0010(b).

(o) The judge of the County Court at Law No. 4 or 6 may appoint a court coordinator or administrative assistant for the court. The judge of the County Court at Law No. 7, 8, 9, 10, 11, ~~or~~ 12, 13, 14, or 15 may, with the approval of the commissioners court, appoint a court coordinator or administrative assistant for the court. A court coordinator or administrative assistant performs the duties prescribed by the judge and cooperates with the administrative judges and state agencies for the uniform and efficient operation of the courts and the administration of justice. The court coordinator or administrative assistant is entitled to be paid from county funds the compensation, fees, and allowances that are set by the commissioners court or as otherwise provided by law. These provisions are in addition to the provisions in Subchapter F, Chapter 75.

(u) The official court reporter of a county court at law is entitled to receive an annual salary set by the judge and approved by the commissioners court at an amount not less than \$35,256. The official court reporter's fee shall be taxed as costs in civil actions in County Courts at Law Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, ~~and~~ 12, 13, 14, and 15 in the same manner as that fee is taxed in district court. In County Court at Law No. 2, the clerk collects the official court reporters' fee of \$3 and pays it into the county treasury in the same manner as district clerks are required to collect and pay costs.

(v) Section 25.0006(a) does not apply to County Courts at Law Nos. 4, 6, 7, 8, 9, 10, 11, ~~and~~ 12, 13, 14, and 15 of Bexar County. Section 25.0006(b) does not apply to County Courts at Law Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, ~~and~~ 12, 13, 14, and 15 of Bexar County.

(c) The County Courts at Law Nos. 13, 14, and 15 of Bexar County, Texas, are created on the effective date of this Act.

SECTION 10. (a) Effective October 1, 2009, Subchapter C, Chapter 25, Government Code, is amended by adding Sections 25.0201 and 25.0202 to read as follows:

Sec. 25.0201. BOSQUE COUNTY. Bosque County has one statutory county court, the County Court at Law of Bosque County.

Sec. 25.0202. BOSQUE COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Bosque County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings;

(2) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$100,000, excluding interest, court costs, and attorney's fees; and

(3) contested probate matters under Section 5(b), Texas Probate Code.

(b) The County Court at Law of Bosque County has primary jurisdiction over juvenile matters.

(c) A county court at law has the same terms of court as the County Court of Bosque County.

(d) The judge of a county court at law may not engage in the private practice of law and must meet the qualifications established by Section 25.0014.

(e) The judge of a county court at law shall be paid as provided by Section 25.0005. The judge's salary shall be paid out of the county treasury on order of the commissioners court. Notwithstanding any other law, the judge is entitled to necessary office and operational expenses, including administrative and clerical personnel, on the approval of the commissioners court. Administrative and clerical personnel to which a judge is entitled on approval under this subsection includes a court coordinator, court reporter, and bailiff.

(f) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members. In all other cases, except as otherwise required by law, the jury shall be composed of six members.

(g) Jurors regularly impaneled for a week by the district court may, on request of the county judge or the judge of a county court at law, be made available and shall serve for the week in the county court or the county court at law.

(b) Effective October 1, 2009, Section 152.0241(a), Human Resources Code, is amended to read as follows:

(a) Bosque County is included in the Bosque, Comanche, and Hamilton counties juvenile board. The juvenile board is composed of:

(1) the county judge in Bosque County;

(2) the county judge in Comanche County;

(3) the county judge in Hamilton County; ~~and~~

(4) the 220th Judicial District judge; and

(5) the judge of the County Court at Law in Bosque County.

(c) The County Court at Law of Bosque County is created on October 1, 2009.

SECTION 11. (a) Subchapter C, Chapter 25, Government Code, is amended by adding Sections 25.0761 and 25.0762 to read as follows:

Sec. 25.0761. FANNIN COUNTY. Fannin County has one statutory county court, the County Court at Law of Fannin County.

Sec. 25.0762. FANNIN COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law and except as provided by Subsection (b), a county court at law in Fannin County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings, including proceedings under Chapter 262, Family Code; and

(2) proceedings under Title 3, Family Code.

(b) A county court at law does not have jurisdiction of proceedings under:

(1) Section 262.201, Family Code; or

(2) Section 54.03 or 54.04, Family Code.

(c) A county court at law shall transfer a family law case or proceeding instituted under Chapter 262, Family Code, from that court to the district court before a hearing governed by Section 262.201, Family Code, is commenced. A case or proceeding transferred as required by this subsection shall be completed under the same cause number and in the same manner as if the case or proceeding were originally filed in the district court. The district court may not transfer the case or proceeding back to the county court at law, except as provided by Section 262.203(a), Family Code.

(d) A county court at law shall transfer a juvenile case or proceeding instituted under Title 3, Family Code, from that court to another court designated as a juvenile court under Section 51.04, Family Code, before a hearing governed by Section 54.03, Family Code, is commenced. A case or proceeding transferred as required by this subsection shall be completed under the same cause number and in the same manner as if the case or proceeding were originally filed in the juvenile court. The juvenile court may not transfer the case or proceeding back to the county court at law.

(b) The County Court at Law of Fannin County is created on the effective date of this Act.

SECTION 12. (a) Effective September 1, 2011, Section 25.1101(a), Government Code, is amended to read as follows:

(a) Hidalgo County has the following statutory county courts:

(1) County Court at Law No. 1 of Hidalgo County;

(2) County Court at Law No. 2 of Hidalgo County;

(3) County Court at Law No. 4 of Hidalgo County;

(4) County Court at Law No. 5 of Hidalgo County; ~~and~~

(5) County Court at Law No. 6 of Hidalgo County;

(6) County Court at Law No. 7 of Hidalgo County; and

(7) County Court at Law No. 8 of Hidalgo County.

(b) The County Court at Law No. 7 of Hidalgo County is created on September 1, 2011.

(c) Notwithstanding Section 25.1101(a)(7), Government Code, as added by this Act, the County Court at Law No. 8 of Hidalgo County is created on September 1, 2012.

SECTION 13. (a) Section 25.1182, Government Code, is amended to read as follows:

Sec. 25.1182. HUNT COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Hunt County has concurrent jurisdiction with the district court in:

(1) felony cases to:

(A) conduct arraignments;

(B) conduct pretrial hearings;

(C) accept guilty pleas; and

(D) conduct jury trials on assignment of a district judge presiding

in Hunt County and acceptance of the assignment by the judge of the county court at law;

(2) Class A and Class B misdemeanor cases;

(3) family law matters;

(4) juvenile matters;

(5) probate matters; and

(6) appeals from the justice and municipal courts.

(b) A county court at law's civil jurisdiction concurrent with the district court in civil cases is limited to cases in which the matter in controversy does not exceed \$200,000. A county court at law does not have general supervisory control or appellate review of the commissioners court or jurisdiction of:

(1) suits on behalf of this state to recover penalties or escheated property;

(2) felony cases involving capital murder;

(3) misdemeanors involving official misconduct; or

(4) contested elections [has the same terms of court as the County Court of Hunt County].

(c) The judge of a county court at law must have the same qualifications as those required by law for a district judge.

(d) The judge of a county court at law shall be paid a total [##] annual salary set by the commissioners court at an amount that is not less than \$1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county [that is at least \$42,500, to be paid from the same fund and in the same manner as the county judge. The judge is entitled to receive travel expenses and necessary office expenses in the same manner as is allowed the county judge].

(e) The judge of a county court at law [shall diligently discharge the duties of his office on a full time basis and] may not engage in the private practice of law.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law [A special judge of a county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for county courts. If the judge of a county court at law is disqualified to try a case pending in the judge's court, the parties or their attorneys may agree on the selection of a special judge to try the case. A special judge is entitled to receive \$100 for each day served to be paid out of the general fund of the county by the commissioners court].

(g) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court [The county sheriff shall, in person or by deputy, attend a county court at law as required by the judge].

(h) Jurors summoned for a county court at law or a district court in the county may by order of the judge of the court to which they are summoned be transferred to another court for service and may be used as if summoned for the court to which they are transferred [Practice in a county court at law is that prescribed by law for county courts].

[(i) Section 25.0005(b) does not apply to a county court at law in Hunt County.]

(b) Sections 152.1221(a), (b), and (d), Human Resources Code, are amended to read as follows:

(a) The Hunt County Juvenile Board is composed of the county judge, the district judges in Hunt County, and the judges [judge] of the county courts [court] at law.

(b) The board shall designate a juvenile court judge as [is] the chairman of the board and its chief administrative officer.

(d) Each judge on the board may [shall] appoint one citizen to serve on the advisory council. Members of the advisory council serve without compensation.

SECTION 14. (a) Subchapter C, Chapter 25, Government Code, is amended by adding Sections 25.1771 and 25.1772 to read as follows:

Sec. 25.1771. NAVARRO COUNTY. Navarro County has one statutory county court, the County Court at Law of Navarro County.

Sec. 25.1772. NAVARRO COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Navarro County has concurrent jurisdiction with the district court in:

(1) felony cases to:

(A) conduct arraignments;

(B) conduct pretrial hearings;

(C) accept guilty pleas; and

(D) conduct jury trials on assignment of a district judge presiding in Navarro County and acceptance of the assignment by the judge of the county court at law;

(2) Class A and Class B misdemeanor cases;

- (3) family law matters;
- (4) juvenile matters;
- (5) probate matters; and
- (6) appeals from the justice and municipal courts.

(b) A county court at law does not have general supervisory control or appellate review of the commissioners court or jurisdiction of:

- (1) suits on behalf of this state to recover penalties or escheated property;
- (2) felony cases involving capital murder;
- (3) misdemeanors involving official misconduct; or
- (4) contested elections.

(c) The judge of a county court at law must have the same qualifications as those required by law for a district judge.

(d) The judge of a county court at law shall be paid a total annual salary set by the commissioners court at an amount that is not less than \$1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county.

(e) The judge of a county court at law may not engage in the private practice of law.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(g) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court.

(h) Jurors summoned for a county court at law or a district court in the county may by order of the judge of the court to which they are summoned be transferred to another court for service and may be used as if summoned for the court to which they are transferred.

(b) Notwithstanding Section 25.1771, Government Code, as added by this section, the County Court at Law of Navarro County is created on January 1, 2011, or on an earlier date determined by the Commissioners Court of Navarro County by an order entered in its minutes.

SECTION 15. (a) Effective January 1, 2011, Subchapter C, Chapter 25, Government Code, is amended by adding Section 25.2362 to read as follows:

Sec. 25.2362. VAN ZANDT COUNTY COURT AT LAW PROVISIONS.

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Van Zandt County has concurrent jurisdiction with the district court in:

- (1) felony cases to:
 - (A) conduct arraignments;
 - (B) conduct pretrial hearings;
 - (C) accept guilty pleas; and

(D) conduct jury trials on assignment of a district judge presiding in Van Zandt County and acceptance of the assignment by the judge of the county court at law;

(2) Class A and Class B misdemeanor cases;

(3) family law matters;

(4) juvenile matters;

(5) probate matters; and

(6) appeals from the justice and municipal courts.

(b) A county court at law's civil jurisdiction concurrent with the district court in civil cases is limited to cases in which the matter in controversy does not exceed \$200,000. A county court at law does not have general supervisory control or appellate review of the commissioners court or jurisdiction of:

(1) suits on behalf of this state to recover penalties or escheated property;

(2) felony cases involving capital murder;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(c) The judge of a county court at law must have the same qualifications as those required by law for a district judge.

(d) The judge of a county court at law shall be paid a total annual salary set by the commissioners court at an amount that is not less than \$1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county.

(e) The judge of a county court at law may not engage in the private practice of law.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(g) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court.

(h) Jurors summoned for a county court at law or a district court in the county may by order of the judge of the court to which they are summoned be transferred to another court for service and may be used as if summoned for the court to which they are transferred.

(b) Effective January 1, 2011, Section 152.2401(a), Human Resources Code, is amended to read as follows:

(a) The Van Zandt County Juvenile Board is composed of the county judge, the criminal district attorney of Van Zandt County, ~~and~~ the judge of the 294th Judicial District, and the judge of the county court at law.

(c) Notwithstanding Section 25.0009, Government Code, the initial vacancy in the office of judge of the County Court at Law of Van Zandt County shall be filled by election. The office exists for purposes of the primary and

general elections in 2010. A vacancy after the initial vacancy is filled as provided by Section 25.0009, Government Code. This subsection takes effect September 1, 2009.

(d) Except as otherwise provided by this section, this section takes effect January 1, 2011.

SECTION 16. (a) Section 43.134(a), Government Code, is amended to read as follows:

(a) The voters of Hale County ~~[and Swisher counties]~~ elect a district attorney for the 64th Judicial District who represents the state in that district court only in Hale County ~~[those counties]~~.

(b) Subchapter B, Chapter 45, Government Code, is amended by adding Section 45.319 to read as follows:

Sec. 45.319. SWISHER COUNTY. The county attorney in Swisher County shall represent the state in all matters pending before the district court in Swisher County.

(c) Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 329th, 344th, 349th, 355th, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

SECTION 17. (a) Subtitle E, Title 7, Health and Safety Code, is amended by adding Chapter 617 to read as follows:

CHAPTER 617. VETERANS COURT PROGRAM

Sec. 617.001. VETERANS COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "veterans court program" means a program that has the following essential characteristics:

- (1) the integration of services in the processing of cases in the judicial system;
- (2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;
- (3) early identification and prompt placement of eligible participants in the program;
- (4) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;
- (5) careful monitoring of treatment and services provided to program participants;
- (6) a coordinated strategy to govern program responses to participants' compliance;
- (7) ongoing judicial interaction with program participants;
- (8) monitoring and evaluation of program goals and effectiveness;
- (9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and
- (10) development of partnerships with public agencies and community organizations, including the United States Department of Veterans Affairs.

(b) If a defendant successfully completes a veterans court program, as authorized under Section 76.011, Government Code, after notice to the attorney representing the state and a hearing in the veterans court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the criminal action against the defendant.

Sec. 617.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY. (a) The commissioners court of a county may establish a veterans court program for persons arrested for or charged with any misdemeanor or felony offense. A defendant is eligible to participate in a veterans court program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds that the defendant:

- (1) is a veteran or current member of the United States armed forces, including a member of the reserves, national guard, or state guard; and
- (2) suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, that:

(A) resulted from the defendant's military service in a combat zone or other similar hazardous duty area; and

(B) materially affected the defendant's criminal conduct at issue in the case.

(b) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the veterans court program or otherwise through the criminal justice system.

(c) Proof of matters described by Subsection (a) may be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including military service and medical records, previous determinations of a disability by a veteran's organization or by the United States

Department of Veterans Affairs, testimony or affidavits of other veterans or service members, and prior determinations of eligibility for benefits by any state or county veterans office. The court's findings must accompany any docketed case.

Sec. 617.003. DUTIES OF VETERANS COURT. (a) A veterans court program established under this chapter must:

(1) ensure a person eligible for the program is provided legal counsel before volunteering to proceed through the program and while participating in the program;

(2) allow a participant to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

(4) ensure that the jurisdiction of the veterans court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

(b) A veterans court program established under this chapter shall make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(c) This chapter does not prevent the initiation of procedures under Chapter 46B, Code of Criminal Procedure.

Sec. 617.004. ESTABLISHMENT OF REGIONAL PROGRAM. The commissioners courts of two or more counties may elect to establish a regional veterans court program under this chapter for the participating counties.

Sec. 617.005. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of veterans court programs established under this chapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a veterans court program established under this chapter.

(c) A veterans court program established under this chapter shall:

(1) notify the criminal justice division of the governor's office before or on implementation of the program; and

(2) provide information regarding the performance of the program to that division on request.

Sec. 617.006. FEES. (a) A veterans court program established under this chapter may collect from a participant in the program:

(1) a reasonable program fee not to exceed \$1,000; and

(2) a testing, counseling, and treatment fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided under the program.

(b) Fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the program. The fees must be:

(1) based on the participant's ability to pay; and

(2) used only for purposes specific to the program.

(b) Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; or

(2) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011, Government Code, or because the presentation had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest.

SECTION 18. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 19. This Act takes effect September 1, 2009.

Representative Hunter moved to adopt the conference committee report on **HB 4833**.

The motion to adopt the conference committee report on **HB 4833** prevailed by (Record 1718): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver;

Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Bolton; Hamilton.

HR 2992 - ADOPTED
(by Smithee)

The following privileged resolution was laid before the house:

HR 2992

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 78**, relating to promoting awareness and education about the purchase and availability of health coverage, to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text that is not in disagreement to Subtitle G, Title 8, Insurance Code, by adding Chapter 1508 to read as follows:

ARTICLE 2. HEALTHY TEXAS PROGRAM

SECTION 2.01. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1508 to read as follows:

CHAPTER 1508. HEALTHY TEXAS PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1508.001. PURPOSE. (a) The purposes of the Healthy Texas Program are to:

(1) provide access to quality small employer health benefit plans at an affordable price;

(2) encourage small employers to offer health benefit plan coverage to employees and the dependents of employees; and

(3) maximize reliance on proven managed care strategies and procedures.

(b) The Healthy Texas Program is not intended to diminish the availability of traditional small employer health benefit plan coverage under Chapter 1501.

Sec. 1508.002. DEFINITIONS. In this chapter:

(1) "Dependent" has the meaning assigned by Section 1501.002(2).

(2) "Eligible employee" has the meaning assigned by Section 1501.002(3).

(3) "Fund" means the healthy Texas small employer premium stabilization fund established under Subchapter F.

(4) "Health benefit plan" and "health benefit plan issuer" have the meanings assigned by Sections 1501.002(5) and 1501.002(6), respectively.

(5) "Program" means the Healthy Texas Program established under this chapter.

(6) "Qualifying health benefit plan" means a health benefit plan that provides benefits for health care services in the manner described by this chapter.

(7) "Small employer" has the meaning assigned by Section 1501.002(14).

Sec. 1508.003. RULES. The commissioner may adopt rules as necessary to implement this chapter.

[Sections 1508.004-1508.050 reserved for expansion]

SUBCHAPTER B. EMPLOYER ELIGIBILITY; CONTRIBUTIONS

Sec. 1508.051. EMPLOYER ELIGIBILITY TO PARTICIPATE. (a) A small employer may participate in the program if:

(1) during the 12-month period immediately preceding the date of application for a qualifying health benefit plan, the small employer does not offer employees group health benefits on an expense-reimbursed or prepaid basis; and

(2) at least 30 percent of the small employer's eligible employees receive annual wages from the employer in an amount that is equal to or less than 300 percent of the poverty guidelines for an individual, as defined and updated annually by the United States Department of Health and Human Services.

(b) A small employer ceases to be eligible to participate in the program if any health benefit plan that provides employee benefits on an expense-reimbursed or prepaid basis, other than another qualifying health benefit plan, is purchased or otherwise takes effect after the purchase of a qualifying health benefit plan.

Sec. 1508.052. COMMISSIONER ADJUSTMENTS AUTHORIZED.

(a) The commissioner by rule may adjust the 12-month period described by Section 1508.051(a)(1) to an 18-month period if the commissioner determines that the 12-month period is insufficient to prevent inappropriate substitution of other health benefit plans for qualifying health benefit plan coverage under this chapter.

(b) The commissioner by rule may adjust the percentage of the poverty guidelines described by Section 1508.051(a)(2) to a higher or lower percentage if the commissioner determines that the adjustment is necessary to fulfill the purposes of this chapter. An adjustment made by the commissioner under this subsection takes effect on the first July 1 following the adjustment.

Sec. 1508.053. MINIMUM EMPLOYER PARTICIPATION REQUIREMENTS. A small employer that meets the eligibility requirements described by Section 1508.051(a) may apply to purchase a qualifying health benefit plan if 60 percent or more of the employer's eligible employees elect to participate in the plan.

Sec. 1508.054. EMPLOYER CONTRIBUTION REQUIREMENTS. (a) A small employer that purchases a qualifying health benefit plan must:

(1) pay 50 percent or more of the premium for each employee covered under the qualifying health benefit plan;

(2) offer coverage to all eligible employees receiving annual wages from the employer in an amount described by Section 1508.051(a)(2) or 1508.052(b), as applicable; and

(3) contribute the same percentage of premium for each covered employee.

(b) A small employer that purchases a qualifying health benefit plan under the program may elect to pay, but is not required to pay, all or any portion of the premium paid for dependent coverage under the qualifying health benefit plan.

[Sections 1508.055-1508.100 reserved for expansion]

SUBCHAPTER C. PROGRAM PARTICIPATION; REQUIRED COVERAGE AND BENEFITS

Sec. 1508.101. PARTICIPATING PLAN ISSUERS. (a) Subject to Subsection (b), any health benefit plan issuer may participate in the program.

(b) The commissioner by rule may limit which health benefit plan issuers may participate in the program if the commissioner determines that the limitation is necessary to achieve the purposes of this chapter.

(c) If the commissioner limits participation in the program under Subsection (b), the commissioner shall contract on a competitive procurement basis with one or more health benefit plan issuers to provide qualifying health benefit plan coverage under the program.

(d) Nothing in this chapter prohibits a regional or local health care program described by Chapter 75, Health and Safety Code, from participating in the program. The commissioner by rule shall establish participation requirements applicable to regional and local health care programs that consider the unique plan designs, benefit levels, and participation criteria of each program.

Sec. 1508.102. PREEXISTING CONDITION PROVISION REQUIRED. A health benefit plan offered under the program must include a preexisting condition provision that meets the requirements described by Section 1501.102.

Sec. 1508.103. EXCEPTION FROM MANDATED BENEFIT REQUIREMENTS. Except as expressly provided by this chapter, a small employer health benefit plan issued under the program is not subject to a law of this state that requires coverage or the offer of coverage of a health care service or benefit.

Sec. 1508.104. CERTAIN COVERAGE PROHIBITED OR REQUIRED. (a) A qualifying health benefit plan may only provide coverage for in-plan services and benefits, except for:

(1) emergency care; or

(2) other services not available through a plan provider.

(b) In-plan services and benefits provided under a qualifying health benefit plan must include the following:

- (1) inpatient hospital services;
- (2) outpatient hospital services;
- (3) physician services; and
- (4) prescription drug benefits.

(c) The commissioner may approve in-plan benefits other than those required under Subsection (b) or emergency care or other services not available through a plan provider if the commissioner determines the inclusion to be essential to achieve the purposes of this chapter.

(d) The commissioner may, with respect to the categories of services and benefits described by Subsections (b) and (c):

- (1) prepare specifications for a coverage provided under this chapter;
- (2) determine the methods and procedures of claims administration;
- (3) establish procedures to decide contested cases arising from coverage provided under this chapter;
- (4) study, on an ongoing basis, the operation of all coverages provided under this chapter, including gross and net costs, administration costs, benefits, utilization of benefits, and claims administration;
- (5) administer the healthy Texas small employer premium stabilization fund established under Subchapter F;
- (6) provide the beginning and ending dates of coverages for enrollees in a qualifying health benefit plan;
- (7) develop basic group coverage plans applicable to all individuals eligible to participate in the program;
- (8) provide for optional group coverage plans in addition to the basic group coverage plans described by Subdivision (7);
- (9) provide, as determined to be appropriate by the commissioner, additional statewide optional coverage plans;
- (10) develop specific health benefit plans that permit access to high-quality, cost-effective health care;
- (11) design, implement, and monitor health benefit plan features intended to discourage excessive utilization, promote efficiency, and contain costs for qualifying health benefit plans;
- (12) develop and refine, on an ongoing basis, a health benefit strategy for the program that is consistent with evolving benefits delivery systems;
- (13) develop a funding strategy that efficiently uses employer contributions to achieve the purposes of this chapter; and
- (14) modify the copayment and deductible amounts for prescription drug benefits under a qualifying health benefit plan, if the commissioner determines that the modification is necessary to achieve the purposes of this chapter.

[Sections 1508.105-1508.150 reserved for expansion]
SUBCHAPTER D. PROGRAM ADMINISTRATION

Sec. 1508.151. EMPLOYER CERTIFICATION. (a) At the time of initial application, a health benefit plan issuer shall obtain from a small employer that seeks to purchase a qualifying health benefit plan a written certification that the employer meets the eligibility requirements described by Section 1508.051 and the minimum employer participation requirements described by Section 1508.053.

(b) Not later than the 90th day before the renewal date of a qualifying health benefit plan, a health benefit plan issuer shall obtain from the small employer that purchased the qualifying health benefit plan a written certification that the employer continues to meet the eligibility requirements described by Section 1508.051 and the minimum employer participation requirements described by Section 1508.053.

(c) A participating health benefit plan issuer may require a small employer to submit appropriate documentation in support of a certification described by Subsection (a) or (b).

Sec. 1508.152. APPLICATION PROCESS. (a) Subject to Subsection (b), a health benefit plan issuer shall accept applications for qualifying health benefit plan coverage from small employers at all times throughout the calendar year.

(b) The commissioner may limit the dates on which a health benefit plan issuer must accept applications for qualifying health benefit plan coverage if the commissioner determines the limitation to be necessary to achieve the purposes of this chapter.

Sec. 1508.153. EMPLOYEE ENROLLMENT; WAITING PERIOD. (a) A qualifying health benefit plan must provide employees with an initial enrollment period that is 31 days or longer, and annually at least one open enrollment period that is 31 days or longer. The commissioner by rule may require an additional open enrollment period if the commissioner determines that the additional open enrollment period is necessary to achieve the purposes of this chapter.

(b) A small employer may establish a waiting period for employees during which an employee is not eligible for coverage under a qualifying health benefit plan. The last day of a waiting period established under this subsection may not be later than the 90th day after the date on which the employee begins employment with the small employer.

(c) A health benefit plan issuer may not deny coverage under a qualifying health benefit plan to a new employee of a small employer that purchased the qualifying health benefit plan if the health benefit plan issuer receives an application for coverage from the employee not later than the 31st day after the latter of:

(1) the first day of the employee's employment; or
(2) the first day after the expiration of a waiting period established under Subsection (b).

(d) Subject to Subsection (e), a health benefit plan issuer may deny coverage under a qualifying health benefit plan to an employee of a small employer who applies for coverage after the period described by Subsection (c).

(e) A health benefit plan issuer that denies an employee coverage under Subsection (d):

(1) may only deny the employee coverage until the next open enrollment period; and

(2) may subject the enrollee to a one-year preexisting condition provision, as described by Section 1508.102, if the period during which the preexisting condition provision applies does not exceed 18 months from the date of the initial application for coverage under the qualifying health benefit plan.

Sec. 1508.154. REPORTS. A health benefit plan issuer that participates in the program shall submit reports to the department in the form and at the time the commissioner prescribes.

[Sections 1508.155-1508.200 reserved for expansion]

SUBCHAPTER E. RATING OF QUALIFIED HEALTH BENEFIT PLANS

Sec. 1508.201. RATING; PREMIUM PRACTICES IN GENERAL. (a) A health benefit plan issuer participating in the program must:

(1) use rating practices for qualifying health benefit plans that are consistent with the purposes of this chapter; and

(2) in setting premiums for qualifying health benefit plans, consider the availability of reimbursement from the fund.

(b) A health benefit plan issuer participating in the program shall apply rating factors consistently with respect to all small employers in a class of business.

(c) Differences in premium rates charged for qualifying health benefit plans must be reasonable and reflect objective differences in plan design.

Sec. 1508.202. PREMIUM RATE DEVELOPMENT AND CALCULATION. (a) Rating factors used to underwrite qualifying health benefit plans must produce premium rates for identical groups that:

(1) differ only by the amounts attributable to health benefit plan design; and

(2) do not reflect differences because of the nature of the groups assumed to select a particular health benefit plan.

(b) A health benefit plan issuer shall treat each qualifying health benefit plan that is issued or renewed in a calendar month as having the same rating period.

(c) A health benefit plan issuer may use only age and gender as case characteristics, as defined by Section 1501.201(2), in setting premium rates for a qualifying health benefit plan.

(d) The commissioner by rule may establish additional rating criteria and requirements for qualifying health benefit plans if the commissioner determines that the criteria and requirements are necessary to achieve the purposes of this chapter.

Sec. 1508.203. FILING; APPROVAL. (a) A health benefit plan issuer shall file with the department, for review and approval by the commissioner, premium rates to be charged for qualifying health benefit plans.

(b) If the commissioner limits health benefit plan issuer participation in the program under Section 1508.101(b), premium rates proposed to be charged for each qualifying health benefit plan will be considered as an element in the contract procurement process required under that section.

[Sections 1508.204-1508.250 reserved for expansion]

SUBCHAPTER F. HEALTHY TEXAS SMALL EMPLOYER PREMIUM STABILIZATION FUND

Sec. 1508.251. ESTABLISHMENT OF FUND. (a) To the extent that funds appropriated to the department are available for this purpose, the commissioner shall establish a fund from which health benefit plan issuers may receive reimbursement for claims paid by the health benefit plan issuers for individuals covered under qualifying group health plans.

(b) The fund established under this section shall be known as the healthy Texas small employer premium stabilization fund.

(c) The commissioner shall adopt rules necessary to implement and administer the fund, including rules that set out the procedures for operation of the fund and distribution of money from the fund.

Sec. 1508.252. OPERATION OF FUND; CLAIM ELIGIBILITY. (a) A health benefit plan issuer is eligible to receive reimbursement in an amount that is equal to 80 percent of the dollar amount of claims paid between \$5,000 and \$75,000 in a calendar year for an enrollee in a qualifying health benefit plan.

(b) A health benefit plan issuer is eligible for reimbursement from the fund only for the calendar year in which claims are paid.

(c) Once the dollar amount of claims paid on behalf of a covered individual reaches or exceeds \$75,000 in a given calendar year, a health benefit plan issuer may not receive reimbursement for any other claims paid on behalf of the individual in that calendar year.

Sec. 1508.253. REIMBURSEMENT REQUEST SUBMISSION. (a) A health benefit plan issuer seeking reimbursement from the fund shall submit a request for reimbursement in the form prescribed by the commissioner by rule.

(b) A health benefit plan issuer must request reimbursement from the fund annually, not later than the date determined by the commissioner, following the end of the calendar year for which the reimbursement requests are made.

(c) The commissioner may require a health benefit plan issuer participating in the program to submit claims data in connection with reimbursement requests as the commissioner determines to be necessary to ensure appropriate distribution of reimbursement funds and oversee the operation of the fund. The commissioner may require that the data be submitted on a per covered individual, aggregate, or categorical basis.

Sec. 1508.254. FUND AVAILABILITY. (a) The commissioner shall compute the total claims reimbursement amount for all health benefit plan issuers participating in the program for the calendar year for which claims are reported and reimbursement requested.

(b) If the total amount requested by health benefit plan issuers participating in the program for reimbursement for a calendar year exceeds the amount of funds available for distribution for claims paid during that same calendar year, the

commissioner shall provide for the pro rata distribution of any available funds. A health benefit plan issuer participating in the program is eligible to receive a proportional amount of any available funds that is equal to the proportion of total eligible claims paid by all participating health benefit plan issuers that the requesting health benefit plan issuer paid.

(c) If the amount of funds available for distribution for claims paid by all health benefit plan issuers participating in the program during a calendar year exceeds the total amount requested for reimbursement by all participating health benefit plan issuers during that calendar year, the commissioner shall carry forward any excess funds and make those excess funds available for distribution in the next calendar year. Excess funds carried over under this section are added to the fund in addition to any other money appropriated for the fund for the calendar year into which the funds are carried forward.

Sec. 1508.255. PROGRAM REPORTING. (a) Each health benefit plan issuer participating in the program shall provide the department, in the form prescribed by the commissioner, monthly reports of total enrollment under qualifying health benefit plans.

(b) On the request of the commissioner, each health benefit plan issuer participating in the program shall furnish to the department, in the form prescribed by the commissioner, data other than data described by Subsection (a) that the commissioner determines necessary to oversee the operation of the fund.

Sec. 1508.256. CLAIMS EXPERIENCE DATA. (a) Based on available data and appropriate actuarial assumptions, the commissioner shall separately estimate the per covered individual annual cost of total claims reimbursement from the fund for qualifying health benefit plans.

(b) On request, a health benefit plan issuer participating in the program shall furnish to the department claims experience data for use in the estimates described by Subsection (a).

Sec. 1508.257. TOTAL ELIGIBLE ENROLLMENT DETERMINATION. (a) The commissioner shall determine total eligible enrollment under qualifying health benefit plans by dividing the total funds available for distribution from the fund by the estimated per covered individual annual cost of total claims reimbursement from the fund.

(b) At the end of the first year of enrollment and annually thereafter, the commissioner shall submit a report to the governor and the legislature regarding enrollment for the previous year and limitations on future enrollment that ensure that the Healthy Texas Program does not necessitate a substantial increase in funding to continue the program, as consistent with Section 1508.001.

Sec. 1508.258. EVALUATION AND PROTECTION OF FUND; EMPLOYER ENROLLMENT SUSPENSION. (a) The commissioner shall suspend the enrollment of new employers in qualifying health benefit plans if the commissioner determines that the total enrollment reported by all health benefit plan issuers under qualifying health benefit plans exceeds the total eligible enrollment determined under Section 1508.257 and is likely to result in anticipated annual expenditures from the fund in excess of the total funds available for distribution from the fund.

(b) The commissioner shall provide a health benefit plan issuer participating in the program with notification of any enrollment suspension under Subsection (a) as soon as practicable after:

- (1) receipt of all enrollment data; and
- (2) determination of the need to suspend enrollment.

(c) A suspension of issuance of qualifying health benefit plans to employers under Subsection (a) does not preclude the addition of new employees of an employer already covered under a qualifying health benefit plan or new dependents of employees already covered under a qualifying health benefit plan.

Sec. 1508.259. EMPLOYER ENROLLMENT REACTIVATION. If, at any point during a suspension of enrollment under Section 1508.258, the commissioner determines that funds are sufficient to provide for the addition of new enrollments, the commissioner:

- (1) may reactivate new enrollments; and
- (2) shall notify all participating group health benefit plan issuers that enrollment of new employers may be resumed.

Sec. 1508.260. FUND ADMINISTRATOR. (a) The commissioner may obtain the services of an independent organization to administer the fund.

(b) The commissioner shall establish guidelines for the submission of proposals by organizations for the purposes of administering the fund and may approve, disapprove, or recommend modification to the proposal of an applicant to administer the fund.

(c) An organization approved to administer the fund shall submit reports to the commissioner, in the form and at the times required by the commissioner, as necessary to facilitate evaluation and ensure orderly operation of the fund, including an annual report of the affairs and operations of the fund. The annual report must also be delivered to the governor, the lieutenant governor, and the speaker of the house of representatives.

(d) An organization approved to administer the fund shall maintain records in the form prescribed by the commissioner and make those records available for inspection by or at the request of the commissioner.

(e) The commissioner shall determine the amount of compensation to be allocated to an approved organization as payment for fund administration. Compensation is payable only from the fund.

(f) The commissioner may remove an organization approved to administer the fund from fund administration. An organization removed from fund administration under this subsection must cooperate in the orderly transition of services to another approved organization or to the commissioner.

Sec. 1508.261. STOP-LOSS INSURANCE; REINSURANCE. (a) The administrator of the fund, on behalf of and with the prior approval of the commissioner, may purchase stop-loss insurance or reinsurance from an insurance company licensed to write that coverage in this state.

(b) Stop-loss insurance or reinsurance may be purchased to the extent that the commissioner determines funds are available for the purchase of that insurance.

Sec. 1508.262. PUBLIC EDUCATION AND OUTREACH. (a) The commissioner may use an amount of the fund, not to exceed eight percent of the annual amount of the fund, for purposes of developing and implementing public education, outreach, and facilitated enrollment strategies targeted to small employers who do not provide health insurance.

(b) The commissioner shall solicit and accept recommendations concerning the development and implementation of education, outreach, and enrollment strategies under Subsection (a) from agents licensed under Title 13 to write health benefit plans in this state.

(c) The commissioner may contract with marketing organizations to perform or provide assistance with education, outreach, and enrollment strategies described by Subsection (a).

SECTION 2.02. The commissioner of insurance shall adopt any rules necessary to implement the change in law made by Chapter 1508, Insurance Code, as added by this article, not later than January 4, 2010.

SECTION 2.03. (a) The commissioner of insurance shall make an initial determination concerning limitation of health benefit plan issuer participation in the program established under Chapter 1508, Insurance Code, as added by this article, not later than January 18, 2010. If the commissioner determines that limited participation is necessary to achieve the purposes of Chapter 1508, Insurance Code, as added by this article, the commissioner shall issue a request for proposal from health benefit plan issuers to participate in the program not later than May 1, 2010.

(b) The commissioner of insurance shall ensure that the Healthy Texas Program is fully operational in a manner that allows health benefit plan issuers participating in the program to make the first annual request for reimbursement on January 1, 2011.

SECTION 2.04. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

Explanation: This addition is necessary to authorize the creation of the Healthy Texas Program to enhance the availability of health coverage.

HR 2992 was adopted by (Record 1719): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon;

McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Howard, C.

SB 78 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the conference committee report on **SB 78**.

Representative Smithee moved to adopt the conference committee report on **SB 78**.

The motion to adopt the conference committee report on **SB 78** prevailed by (Record 1720): 135 Yeas, 8 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, S.; King, T.; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Button; King, P.; Kleinschmidt; Laubenberg; Miller, D.; Morrison; Paxton; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Hamilton; Harper-Brown; Hodge.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1720. I intended to vote no.

Flynn

(Bonnen in the chair)

HB 459 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Leibowitz submitted the following conference committee report on **HB 459**:

Austin, Texas, May 29, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 459** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Zaffirini
Carona
Eltife

Leibowitz
Bohac
Harless
T. King
Walle

On the part of the senate

On the part of the house

HB 459, A bill to be entitled An Act relating to the authority of counties relating to the abatement and regulation of nuisances and the regulation of scrap tires and noise and sound levels; providing penalties.

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

SECTION 1. Section 343.002(1), Health and Safety Code, is amended to read as follows:

(1) "Abate" means to eliminate or remedy:

(A) by removal, repair, rehabilitation, or demolition;

(B) in the case of a nuisance under Section 343.011(c)(1), (5), (9) [~~(8)~~], or (10) [~~(9)~~], by prohibition or control of access; and

(C) in the case of a nuisance under Section 343.011(c)(12) [~~343.011(e)(11)~~], by removal, remediation, storage, transportation, disposal, or other means of waste management authorized by Chapter 361.

SECTION 2. Section 343.011(c), Health and Safety Code, as amended by Chapters 388 (**SB 680**) and 1366 (**HB 3581**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(c) A public nuisance is:

(1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

(2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;

(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests;

(4) allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;

(5) maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;

(6) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:

(A) a fence that is at least four feet high and that has a latched and locked gate; and

(B) a cover over the entire swimming pool that cannot be removed by a child;

(7) maintaining on any property in a neighborhood in a county with a population of more than 1.1 million a swimming pool that is not protected with:

(A) a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or

(B) a cover over the entire swimming pool that cannot be removed by a child;

(8) maintaining a flea market in a manner that constitutes a fire hazard;

(9) discarding refuse or creating a hazardous visual obstruction on:

(A) county-owned land; or

(B) land or easements owned or held by a special district that has the commissioners court of the county as its governing body;

(10) discarding refuse on the smaller of:

(A) the area that spans 20 feet on each side of a utility line; or

(B) the actual span of the utility easement;

(11) filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement; or

(12) ~~(11)~~ discarding refuse on property that is not authorized for that activity.

SECTION 3. Section 343.013(c), Health and Safety Code, is amended to read as follows:

(c) A county may bring suit under this section to prohibit or control access to the premises to prevent a continued or future violation of Section 343.011(c)(1), (5), (6), (9), or (10). The court may grant relief under this subsection only if the county demonstrates that:

(1) the person responsible for causing the public nuisance has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought prohibits or controls access of a person other than the owner; or

(2) the owner of the premises knew about the nuisance and has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought controls access of the owner.

SECTION 4. Section 343.021, Health and Safety Code, as amended by Chapters 388 (**SB 680**) and 1366 (**HB 3581**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

Sec. 343.021. **AUTHORITY TO ABATE NUISANCE.** If a county adopts abatement procedures that are consistent with the general purpose of this chapter and that conform to this chapter, the county may abate a nuisance under this chapter:

- (1) by demolition or removal;
- (2) in the case of a nuisance under Section 343.011(c)(1), (5), (9), or (10), by prohibiting or controlling access to the premises;
- (3) in the case of a nuisance under Section 343.011(c)(6), by:
 - (A) prohibiting or controlling access to the premises and installing a cover that cannot be opened by a child over the entire swimming pool; or
 - (B) draining and filling the swimming pool; or
- (4) in the case of a nuisance under Section 343.011(c)(12) [~~343.011(c)(11)~~], by removal, remediation, storage, transportation, disposal, or other means of waste management authorized under Chapter 361.

SECTION 5. Section 343.022(a), Health and Safety Code, as amended by Chapters 388 (**SB 680**) and 1366 (**HB 3581**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(a) The abatement procedures adopted by the commissioner's court must be administered by a regularly salaried, full-time county employee. A person authorized by the person administering the abatement program may administer:

- (1) the prohibition or control of access to the premises to prevent a violation of Section 343.011(c)(1), (5), (6), (9), or (10);
- (2) the removal or demolition of the nuisance; and
- (3) the abatement of a nuisance described by Section 343.011(c)(12) [~~343.011(c)(11)~~].

SECTION 6. Section 343.022(c), Health and Safety Code, is amended to read as follows:

- (c) The notice must state:
 - (1) the specific condition that constitutes a nuisance;
 - (2) that the person receiving notice shall abate the nuisance before the:
 - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or
 - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises;
 - (3) that failure to abate the nuisance may result in:
 - (A) abatement by the county;
 - (B) assessment of costs to the person responsible for causing the nuisance when that person can be identified; and

(C) a lien against the property on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property;

(4) that the county may prohibit or control access to the premises to prevent a continued or future nuisance described by Section 343.011(c)(1), (5), (6), (9), or (10); and

(5) that the person receiving notice is entitled to submit a written request for a hearing before the:

(A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or

(B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises.

SECTION 7. Section 343.0235, Health and Safety Code, is amended to read as follows:

Sec. 343.0235. USE OF COUNTY FUNDS. A county is entitled to use any money available under other law for a cleanup or remediation of private property to abate a nuisance described by Section 343.011(c)(1), (5), (9), or (10).

SECTION 8. Chapter 234, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. BUSINESSES RELATED TO AUTOMOBILE TIRES

Sec. 234.051. DEFINITIONS. In this subchapter:

(1) "Mobile tire repair business" means a business that repairs tires at any temporary location, including a roadway, alley, parking lot, or residence.

(2) "Used tire business" means a business or establishment at which used tires are collected, repaired, processed, recycled, scrapped, sold, bought, or stored, including a mobile tire repair business or a salvage yard.

Sec. 234.052. APPLICABILITY. This subchapter applies only to the unincorporated area of a county:

(1) with a population greater than 45,000 and less than 50,000; and

(2) that is adjacent to an international border.

Sec. 234.053. LICENSE OR PERMIT REQUIRED. The commissioners court of a county by order may require that the owner or operator of a mobile tire repair business or used tire business obtain a license or permit from the county before engaging in business in the county. The commissioners court by order may establish a fee to be paid for a license or permit.

Sec. 234.054. SCRAP TIRE DISPOSAL FEE. The commissioners court of a county by order may:

(1) establish a fee to be imposed on the purchase of an automobile tire in the county; and

(2) require a retailer of automobile tires to collect the fee and use the fee to comply with requirements associated with the disposal of scrap tires.

Sec. 234.055. RULES. The commissioners court of a county may adopt rules as necessary to administer this subchapter.

Sec. 234.056. INJUNCTION. A district or county attorney may bring suit to enjoin the operations of a mobile tire repair business, used tire business, or tire retailer in violation of an order or rule adopted under this subchapter.

Sec. 234.057. OFFENSE. A person commits an offense if the person violates an order adopted under this subchapter. An offense under this section is a Class C misdemeanor.

SECTION 9. Chapter 240, Local Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. REGULATION OF NOISE AND SOUND LEVELS

Sec. 240.061. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county with a population of more than 3.3 million.

Sec. 240.062. AUTHORITY TO REGULATE. (a) The commissioners court of the county by order shall prohibit the production of sound from a loudspeaker or sound amplifier the level of which exceeds 85 decibels at a distance of 50 feet from the property line of the property on which the loudspeaker or sound amplifier is operated.

(b) A regulation adopted under this subchapter applies only to the unincorporated area of the county.

Sec. 240.063. PERMIT FOR CERTAIN EVENTS; PERMIT FEES. (a) The commissioners court by order may authorize the holding of events at which loudspeakers or sound amplifiers that produce sounds exceeding the levels specified by Section 240.062 will be used, if the person holding an event obtains a permit from the county for the event.

(b) In determining whether to grant a permit under this section, the commissioners court shall consider whether the sound is recurrent, intermittent, or constant.

(c) A person must apply for the permit in accordance with regulations adopted by the county.

(d) The regulations adopted under this section may provide for the denial, suspension, or revocation of a permit by the county.

(e) A district court has jurisdiction of a suit that arises from the denial, suspension, or revocation of a permit by the county.

(f) A county may impose fees on an applicant for a permit under this section. The fees must be based on the administrative costs of issuing the permit. A county that imposes a permit fee shall establish procedures to reduce the fee amount if the applicant is unable to pay the full permit fee.

Sec. 240.064. METHOD OF SOUND MEASUREMENT. The commissioners court shall by rule adopt a procedure to measure noise and sound levels under this subchapter.

Sec. 240.065. INJUNCTION. A county may sue in the district court for an injunction to prohibit the violation or threatened violation of a prohibition or other regulation adopted under this subchapter.

Sec. 240.066. CRIMINAL PENALTY. (a) A person commits an offense if the person violates a prohibition or other regulation adopted under this subchapter.

(b) An offense under this section is a Class C misdemeanor. If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is a Class B misdemeanor.

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

Representative Leibowitz moved to adopt the conference committee report on **HB 459**.

The motion to adopt the conference committee report on **HB 459** prevailed by (Record 1721): 140 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Sheffield; Smithee; Swinford; Weber.

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

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Howard, C.

SB 1970 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative T. Smith submitted the conference committee report on **SB 1970**.

Representative T. Smith moved to adopt the conference committee report on **SB 1970**.

The motion to adopt the conference committee report on **SB 1970** prevailed by (Record 1722): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Farabee; Farias; Farrar;

Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Eiland; England; McCall; McReynolds.

STATEMENTS OF VOTE

When Record No. 1722 was taken, I was in the house but away from my desk. I would have voted yes.

Eiland

When Record No. 1722 was taken, I was in the house but away from my desk. I would have voted yes.

McCall

HR 3061 - ADOPTED

(by Corte)

The following privileged resolution was laid before the house:

HR 3061

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HJR 14** (constitutional amendments limiting the public taking of private property, establishing the national research university fund to fund emerging research universities, and eliminating the higher education fund) to consider and take action on the following matter:

House Rule 13, Sections 9(a)(1) and (4), are suspended to allow the conference committee to change and add text on a matter that is not in disagreement in proposed amendments to Section 17, Article I, Texas Constitution, so that the proposed Section 17 reads as follows:

SECTION 1.01. Section 17, Article I, Texas Constitution, is amended to read as follows:

Sec. 17. (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:

(1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:

(A) the State, a political subdivision of the State, or the public at large; or

(B) an entity granted the power of eminent domain under law; or

(2) the elimination of urban blight on a particular parcel of property.

(b) In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.

(c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.

(d) When a person's property is taken under Subsection (a) of this section [~~and, when taken~~], except for the use of the State, [~~such~~] compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities[~~]~~ shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.

Explanation: The changes and additions are necessary to provide that on and after January 1, 2010, the legislature may enact a law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.

HR 3061 was adopted by (Record 1723): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Anchia.

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

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Hartnett.

HJR 14 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Corte submitted the following conference committee report on **HJR 14**:

Austin, Texas, May 31, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HJR 14** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Duncan
Estes
Hegar

Corte
Bonnen
Hilderbran
Peña
Woolley

On the part of the senate

On the part of the house

HJR 14, A joint resolution proposing constitutional amendments limiting the public taking of private property, establishing the national research university fund to fund emerging research universities, and eliminating the higher education fund.

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

ARTICLE 1.

SECTION 1.01. Section 17, Article I, Texas Constitution, is amended to read as follows:

Sec. 17. (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:

(1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:

(A) the State, a political subdivision of the State, or the public at large; or

(B) an entity granted the power of eminent domain under law; or

(2) the elimination of urban blight on a particular parcel of property.

(b) In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.

(c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.

(d) When a person's property is taken under Subsection (a) of this section [and, when taken], except for the use of the State, [such] compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities[.] shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.

SECTION 1.02. The constitutional amendment proposed in this article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to prohibit the taking, damaging, or destroying of private property for public use unless the action is for the ownership, use, and enjoyment of the property by the State, a political subdivision of the State, the public at large, or entities granted the power of eminent domain under law or for the elimination of urban blight on a particular parcel of property, but not for certain economic development or enhancement of tax revenue purposes, and to limit the legislature's authority to grant the power of eminent domain to an entity."

ARTICLE 2.

SECTION 2.01. Article VII, Texas Constitution, is amended by adding Section 20 to read as follows:

Sec. 20. (a) There is established the national research university fund for the purpose of providing a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve national prominence as major research universities.

(b) The fund consists of money transferred or deposited to the credit of the fund and any interest or other return on the investment assets of the fund. The legislature may dedicate state revenue to the credit of the fund.

(c) The legislature shall provide for administration of the fund, which shall be invested in the manner and according to the standards provided for investment of the permanent university fund. The expenses of managing the investments of the fund shall be paid from the fund.

(d) In each state fiscal biennium, the legislature may appropriate as provided by Subsection (f) of this section all or a portion of the total return on all investment assets of the fund to carry out the purposes for which the fund is established.

(e) The legislature biennially shall allocate the amounts appropriated under this section, or shall provide for a biennial allocation of those amounts, to eligible state universities to carry out the purposes of the fund. The money shall be allocated based on an equitable formula established by the legislature or an agency designated by the legislature. The legislature shall review and as appropriate adjust, or provide for a review and adjustment, of the allocation formula at the end of each state fiscal biennium.

(f) The portion of the total return on investment assets of the fund that is available for appropriation in a state fiscal biennium under this section is the portion determined by the legislature, or an agency designated by the legislature, as necessary to provide as nearly as practicable a stable and predictable stream of annual distributions to eligible state universities and to maintain over time the purchasing power of fund investment assets. If the purchasing power of fund investment assets for any rolling 10-year period is not preserved, the distributions may not be increased until the purchasing power of the fund investment assets is restored. The amount appropriated from the fund in any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of the fund, as determined by law. Until the fund has been invested for a period of time sufficient to determine the purchasing power over a 10-year period, the legislature may provide by law for means of preserving the purchasing power of the fund.

(g) The legislature shall establish criteria by which a state university may become eligible to receive a portion of the distributions from the fund. A state university that becomes eligible to receive a portion of the distributions from the fund in a state fiscal biennium remains eligible to receive additional distributions from the fund in any subsequent state fiscal biennium. The University of Texas at Austin and Texas A&M University are not eligible to receive money from the fund.

(h) An eligible state university may use distributions from the fund only for the support and maintenance of educational and general activities that promote increased research capacity at the university.

SECTION 2.02. Subsection (i), Section 17, Article VII, Texas Constitution, is repealed.

SECTION 2.03. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund.

(b) The amendment to add Section 20 to Article VII of this constitution and to repeal Section 17(i), Article VII, of this constitution takes effect January 1, 2010.

(c) On January 1, 2010, any amount in or payable to the credit of the higher education fund established by Section 17(i), Article VII, Texas Constitution, shall be transferred to the credit of the national research university fund.

(d) This temporary provision expires January 1, 2011.

SECTION 2.04. The constitutional amendment proposed by this Article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment establishing the national research university fund to

enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund."

HJR 14 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HILDERBRAN: Representative Corte, first I want to say congratulations for bringing such an important amendment to our constitution to the floor today. Ensuring that private property can only be taken for a truly public use is an important issue. However, as I am sure you are aware another important eminent domain reform bill, **SB 18**, failed to pass this session. Even though **HJR 14** addresses taking private property for public use, do you feel that Governor Perry and the legislature should make it a priority to come back next session and complete the work on the other issues that affect property owners in the eminent domain process?

REPRESENTATIVE CORTE: Yes, I do. **SB 18** addressed several important issues beyond taking property for public use or compensation for diminished access. For example, under current law condemning entities are not required to make a good faith offer to purchase property before initiating condemnation. **SB 18** would have required condemning entities to make a bona fide offer before condemnation and would allow property owners to be awarded their attorney's fees if the condemning entities did not make a bona fide offer.

HILDERBRAN: Representative, wouldn't **SB 18** have improved the condemnation process by requiring all condemning entities to provide improved notice and disclosure to property owners?

CORTE: Yes, it would. The improved notice and disclosure requirements would have applied to all entities, not just governmental entities.

HILDERBRAN: Didn't **SB 18** require relocation assistance to be provided to displaced property owners?

CORTE: Yes, it did. It is important to help property owners displaced by condemnation, and this bill would have required that assistance be given to those displaced property owners.

HILDERBRAN: Representative, wouldn't **SB 18** also have enacted the constitutional amendment that Texans voted for by over 80 percent that allows property owners to buy back their property in 10 years if it is not used for a public purpose?

CORTE: Yes, it would have. I think it is important to enact in statute the constitutional amendment Texans overwhelmingly supported.

HILDERBRAN: Didn't **SB 18** have provisions to identify all the entities in Texas with eminent domain authority?

CORTE: Yes, it did. There are literally thousands of entities in our state with the authority to take private property. I think it is important for us to know which entities have been given such a significant police power to determine if oversight and changes are needed.

HILDERBRAN: Thank you, again for bringing **HJR 14** to us today, and I hope that we can come back next session and finish the job on eminent domain.

CORTE: I hope we can as well. I will certainly be supporting legislation to address these other issues next session.

REMARKS ORDERED PRINTED

Representative Hilderbran moved to print remarks between Representative Corte and Representative Hilderbran.

The motion prevailed.

Representative Corte moved to adopt the conference committee report on **HJR 14**.

The motion to adopt the conference committee report on **HJR 14** prevailed by (Record 1724): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen(C); Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Hancock; Kuempel; Pierson.

HJR 14 - STATEMENT OF LEGISLATIVE INTENT

It is the intent of the legislature that **HJR 14** end the practice of governmental and quasi-governmental entities using the power of eminent domain to take land from private individuals to facilitate the private development and redevelopment of property. Such practices represent a harm to the citizens of the State of Texas. This amendment was passed in response to the United States Supreme Court's decision in *Kelo v City of New London*, which held that eminent domain for private development is consistent with the Fifth Amendment

of the United States Constitution. The use of eminent domain in the Kelo case is inconsistent with the intent and meaning of Article I, Section 17 of the Texas Constitution and inconsistent with this amendment.

This amendment is further intended to restrict the ability of local governments to condemn property for the purpose of eliminating urban blight by only allowing condemnation on a parcel-by-parcel basis, and based only upon the presence of dangerous conditions on the property that represent a genuine threat to the public health, safety, and welfare (urban blight). This amendment is intended to restrict, and in no way expand, the eminent domain authority of condemning entities. It is the intent of the legislature that the terms of this amendment shall be construed in favor of its purpose to protect private property from condemnation.

Corte

HB 2012 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Vaught submitted the following conference committee report on **HB 2012**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2012** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona
Deuell
Watson

Kent
S. King
Gattis
Bohac
Vaught

On the part of the senate

On the part of the house

HB 2012, A bill to be entitled An Act relating to the criminal consequences of operating without a valid driver's license a motor vehicle for which financial responsibility is not established.

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

SECTION 1. This Act shall be known as Eric's Law.

SECTION 2. Section 521.457, Transportation Code, is amended by amending Subsections (e) and (f) and adding Subsection (f-2) to read as follows:

(e) Except as provided by Subsections (f), ~~(f-1)~~, and (f-2), an offense under this section is a Class C misdemeanor.

(f) An offense under this section is a Class B misdemeanor if [H] it is shown on the trial of the [an] offense [under this section] that the person:

(1) has previously been convicted of an offense under this section or an offense under Section 601.371(a), as that law existed before September 1, 2003; or

(2) at the time of the offense, was operating the motor vehicle in violation of Section 601.191 [~~the offense is a Class B misdemeanor~~].

(f-2) An offense under this section is a Class A misdemeanor if it is shown on the trial of the offense that at the time of the offense the person was operating the motor vehicle in violation of Section 601.191 and caused or was at fault in a motor vehicle accident that resulted in serious bodily injury to or the death of another person.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

Representative Vaught moved to adopt the conference committee report on **HB 2012**.

The motion to adopt the conference committee report on **HB 2012** prevailed by (Record 1725): 135 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hefflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Dutton; Gutierrez.

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

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Brown, F.; Corte; Edwards; Hilderbran; Isett; Martinez Fischer; Riddle; Thompson.

STATEMENT OF VOTE

When Record No. 1725 was taken, I was in the house but away from my desk. I would have voted yes.

Isett

HB 963 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Guillen submitted the following conference committee report on **HB 963**:

Austin, Texas, May 30, 2009

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 963** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Whitmire
Jackson
Van de Putte

Guillen
Thompson
Madden
McReynolds
Gutierrez

On the part of the senate

On the part of the house

HB 963, A bill to be entitled An Act relating to the eligibility of certain applicants for occupational licenses.

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

SECTION 1. Chapter 53, Occupations Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY

Sec. 53.101. DEFINITIONS. In this subchapter:

(1) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority; and

(B) a person must obtain to practice or engage in a particular business, occupation, or profession.

(2) "Licensing authority" means a department, commission, board, office, or other agency of the state that issues a license.

Sec. 53.102. REQUEST FOR CRIMINAL HISTORY EVALUATION LETTER. (a) A person may request a licensing authority to issue a criminal history evaluation letter regarding the person's eligibility for a license issued by that authority if the person:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and

(2) has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.

(b) The request must state the basis for the person's potential ineligibility.

Sec. 53.103. AUTHORITY TO INVESTIGATE. A licensing authority has the same powers to investigate a request submitted under this subchapter and the requestor's eligibility that the authority has to investigate a person applying for a license.

Sec. 53.104. DETERMINATION OF ELIGIBILITY; LETTER. (a) If a licensing authority determines that a ground for ineligibility does not exist, the authority shall notify the requestor in writing of the authority's determination on each ground of potential ineligibility.

(b) If a licensing authority determines that the requestor is ineligible for a license, the licensing authority shall issue a letter setting out each basis for potential ineligibility and the authority's determination as to eligibility. In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is issued, the authority's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

(c) A licensing authority must provide notice under Subsection (a) or issue a letter under Subsection (b) not later than the 90th day after the date the authority receives the request.

Sec. 53.105. FEES. A licensing authority may charge a person requesting an evaluation under this subchapter a fee adopted by the authority. Fees adopted by a licensing authority under this subchapter must be in an amount sufficient to cover the cost of administering this subchapter.

SECTION 2. Not later than September 1, 2010, a department, commission, board, office, or other agency of the state that issues a license to practice or engage in a particular business, profession, or occupation shall adopt rules necessary to administer Subchapter D, Chapter 53, Occupations Code, as added by this Act.

SECTION 3. Section 53.021(a), Occupations Code, is amended to read as follows:

(a) A licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:

(1) an offense [~~a felony or misdemeanor~~] that directly relates to the duties and responsibilities of the licensed occupation;

(2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license;

(3) an offense listed in Section 3g, Article 42.12, Code of Criminal Procedure; or

(4) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

SECTION 4. Subchapter B, Chapter 53, Occupations Code, is amended by adding Section 53.0211 to read as follows:

Sec. 53.0211. LICENSING OF CERTAIN APPLICANTS WITH PRIOR CRIMINAL CONVICTIONS. (a) This section does not apply to an applicant for a license that would allow the applicant to provide:

(1) law enforcement services;
(2) public health, education, or safety services; or
(3) financial services in an industry regulated by the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner.

(b) Notwithstanding any law other than Subsection (a) and unless the applicant has been convicted of an offense described by Section 53.021(a), a licensing authority shall issue to an otherwise qualified applicant who has been convicted of an offense:

(1) the license for which the applicant applied; or
(2) a provisional license described by Subsection (c).

(c) A licensing authority may issue a provisional license for a term of six months to an applicant who has been convicted of an offense.

(d) The licensing authority shall revoke a provisional license if the provisional license holder:

(1) commits a new offense;
(2) commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or
(3) violates the law or rules governing the practice of the occupation for which the provisional license is issued.

(e) The licensing authority shall issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if the provisional license holder does not engage in conduct described by Subsection (d).

(f) If the licensing authority revokes a provisional license under Subsection (d), the provisional license holder is disqualified from receiving the license for which the applicant originally applied.

(g) An applicant who is on community supervision, mandatory supervision, or parole and who is issued a provisional license under this section shall provide to the licensing authority the name and contact information of the probation or parole department to which the person reports. The licensing authority shall notify the probation or parole department that a provisional license has been issued. The probation or parole department shall notify the licensing authority if the person's community supervision, mandatory supervision, or parole supervision is revoked during the term of the provisional license.

SECTION 5. The changes in law made by this Act by the amendment of Section 53.021(a), Occupations Code, and the addition of Section 53.0211, Occupations Code, apply only to an application for a license filed with a licensing authority, to which Chapter 53, Occupations Code, applies, on or after

the effective date of this Act. An application filed before that date is governed by the law in effect when the application is filed, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 963 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HARTNETT: Mr. Guillen, I have a question to establish legislative intent. Is it your legislative intent in **HB 963** that the term "safety services," in new Section 53.0211, includes all licenses issued pursuant to Chapter 1702 of the Occupations Code?

REPRESENTATIVE GUILLEN: Yes.

REPRESENTATIVE FLETCHER: Mr. Guillen, in **HB 963**, Section 53.0211 states that the section does not apply to an applicant for a license that would allow the applicant to provide public safety services. Is it your intent for that definition to apply to individuals licensed under Chapter 1702 of the Occupations Code that are licensed in private security services providers?

GUILLEN: Yes, it is.

REMARKS ORDERED PRINTED

Representative Hartnett moved to print remarks between Representative Guillen and Representative Hartnett.

The motion prevailed.

Representative Fletcher moved to print remarks between Representative Guillen and Representative Fletcher.

The motion prevailed.

Representative Guillen moved to adopt the conference committee report on **HB 963**.

The motion to adopt the conference committee report on **HB 963** prevailed by (Record 1726): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon;

McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Hancock; Kuempel; Pierson.

(Speaker in the chair)

HR 3051 - ADOPTED
(by Isett)

The following privileged resolution was laid before the house:

HR 3051

BE IT RESOLVED by the House of Representatives of the State of Texas, 81st Legislature, Regular Session, 2009, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1959** (the governmental entities subject to the sunset review process) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following:

SECTION 1.09. TEXAS STATE AFFORDABLE HOUSING CORPORATION. (a) Section 2306.5521, Government Code, is amended to read as follows:

Sec. 2306.5521. **SUNSET PROVISION.** The Texas State Affordable Housing Corporation is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this subchapter expires September 1, 2011 [~~2009~~].

(b) This section takes effect only if the 81st Legislature, Regular Session, 2009, does not enact other legislation that becomes law and that amends Section 2306.5521, Government Code, to extend the sunset date of the Texas State Affordable Housing Corporation. If the 81st Legislature, Regular Session, 2009, enacts legislation of that kind, this section has no effect.

SECTION 1.10. TEXAS RACING COMMISSION. (a) Subsection (a), Section 18.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Texas Racing Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, and except as provided by Subsections (b) and (c) of this section, the commission is abolished and this Act expires September 1, 2011 [~~2009~~].

(b) This section takes effect only if the 81st Legislature, Regular Session, 2009, does not enact other legislation that becomes law and that amends Section 18.01, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), to extend the sunset date of the Texas Racing Commission. If the 81st Legislature, Regular Session, 2009, enacts legislation of that kind, this section has no effect.

SECTION 1.11. TEXAS DEPARTMENT OF INSURANCE. (a) Section 31.004(a), Insurance Code, is amended to read as follows:

(a) The Texas Department of Insurance is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2011 ~~[2009]~~.

(b) This section takes effect only if the 81st Legislature, Regular Session, 2009, does not enact other legislation that becomes law and that amends Section 31.004(a), Insurance Code, to extend the sunset date of the Texas Department of Insurance. If the 81st Legislature, Regular Session, 2009, enacts legislation of that kind, this section has no effect.

SECTION 1.12. TEXAS YOUTH COMMISSION. (a) Section 61.020, Human Resources Code, is amended to read as follows:

Sec. 61.020. SUNSET PROVISION. (a) The Texas Youth Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011 ~~[2009]~~.

(b) In the review of the Texas Youth Commission by the Sunset Advisory Commission, as required by this section, the sunset commission shall focus its review on:

(1) the commission's compliance with Chapter 263 (SB 103), Acts of the 80th Legislature, Regular Session, 2007;

(2) requirements placed on the agency by legislation enacted by the 81st Legislature, Regular Session, 2009, that becomes law, including implementation of programs for the diversion of youth from the commission; and

(3) initiatives of the commission and the Texas Juvenile Probation Commission in coordinating activities and services to better integrate Texas Youth Commission, Texas Juvenile Probation Commission, and county juvenile justice functions, including joint strategic planning, the sharing of youth data across youth-serving agencies, assessments and classification of youth, and collection of data on probation outcomes.

(c) In its report to the 82nd Legislature, the sunset commission may include any recommendations it considers appropriate. This subsection and Subsection (b) expire September 1, 2011.

(b) This section takes effect only if the 81st Legislature, Regular Session, 2009, does not enact other legislation that becomes law and that amends Section 61.020, Human Resources Code, to extend the sunset date of the Texas Youth Commission. If the 81st Legislature, Regular Session, 2009, enacts legislation of that kind, this section has no effect.

SECTION 1.13. TEXAS JUVENILE PROBATION COMMISSION. (a) Section 141.012, Human Resources Code, is amended to read as follows:

Sec. 141.012. SUNSET PROVISION. (a) The Texas Juvenile Probation Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011 [~~2009~~].

(b) In the review of the Texas Juvenile Probation Commission by the Sunset Advisory Commission, as required by this section, the sunset commission shall focus its review on the following:

(1) the commission's compliance with Chapter 263 (SB 103), Acts of the 80th Legislature, Regular Session, 2007;

(2) requirements placed on the agency by legislation enacted by the 81st Legislature, Regular Session, 2009, that becomes law, including implementation of programs for the diversion of youth from the Texas Youth Commission; and

(3) initiatives of the commission and the Texas Youth Commission in coordinating activities and services to better integrate Texas Juvenile Probation Commission, Texas Youth Commission, and county juvenile justice functions, including joint strategic planning, the sharing of youth data across youth-serving agencies, assessment and classification of youth, and collection of data on probation outcomes.

(c) In its report to the 82nd Legislature, the sunset commission may include any recommendations it considers appropriate. This subsection and Subsection (b) expire September 1, 2011.

(b) This section takes effect only if the 81st Legislature, Regular Session, 2009, does not enact other legislation that becomes law and that amends Section 141.012, Human Resources Code, to extend the sunset date of the Texas Juvenile Probation Commission. If the 81st Legislature, Regular Session, 2009, enacts legislation of that kind, this section has no effect.

SECTION 1.14. OFFICE OF INDEPENDENT OMBUDSMAN FOR THE TEXAS YOUTH COMMISSION. (a) Section 64.054, Human Resources Code, is amended to read as follows:

Sec. 64.054. SUNSET PROVISION. (a) The office is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The office shall be reviewed during the periods in which the Texas Youth Commission is [state agencies abolished in 2009 and every 12th year after 2009 are] reviewed.

(b) Notwithstanding Subsection (a), the Sunset Advisory Commission shall focus its review of the office on compliance with requirements placed on the office by legislation enacted by the 81st Legislature, Regular Session, 2009, that becomes law. This subsection expires September 1, 2011.

(b) This section takes effect only if the 81st Legislature, Regular Session, 2009, does not enact other legislation that becomes law and that amends Section 64.054, Human Resources Code, to extend the sunset date of the Office of Independent Ombudsman for the Texas Youth Commission. If the 81st Legislature, Regular Session, 2009, enacts legislation of that kind, this section has no effect.

SECTION 1.15. OFFICE OF PUBLIC INSURANCE COUNSEL. Section 501.003, Insurance Code, is amended to read as follows:

Sec. 501.003. SUNSET PROVISION. The office is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2011 [2009].

SECTION 1.16. TEXAS DEPARTMENT OF PUBLIC SAFETY. (a) Section 411.002, Government Code, is amended by amending Subsection (c) to read as follows:

(c) The Department of Public Safety of the State of Texas is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and Subsections (a) and (b) expire September 1, 2011 [2009].

(b) This section takes effect only if the 81st Legislature, Regular Session, 2009, does not enact other legislation that becomes law and that amends Section 411.002, Government Code, to extend the sunset date of the Texas Department of Public Safety. If the 81st Legislature, Regular Session, 2009, enacts legislation of that kind, this section has no effect.

Explanation: The changes are necessary to change the sunset review date for various state agencies.

(2) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee, in SECTION 1.17 of the bill, to change text that is not in disagreement and to omit text that is not in disagreement by amending Section 7.004, Education Code, to read as follows:

SECTION 1.17. TEXAS EDUCATION AGENCY. Section 7.004, Education Code, is amended to read as follows:

Sec. 7.004. SUNSET PROVISION. (a) The Texas Education Agency is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the agency is abolished September 1, 2011 [2012]. ~~[In the review of the agency by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made by the sunset commission to the 79th Legislature. In the Sunset Advisory Commission's report to the 80th Legislature, the sunset commission may include any recommendations it considers appropriate.]~~

Explanation: The change is necessary to provide for the sunset review of the Texas Education Agency in preparation for the 82nd Legislature.

(3) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add the following:

SECTION 2.12. OFFICE OF FIREFIGHTERS' PENSION COMMISSIONER. Article 6243e, Vernon's Texas Civil Statutes, Section 21(h), is amended to read as follows:

(h) The office of fire fighters' pension commissioner is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2013 [2011].

SECTION 2.13. TEXAS LOTTERY COMMISSION. Section 467.002, Government Code, is amended to read as follows:

Sec. 467.002. APPLICATION OF SUNSET ACT. The commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter, Chapter 466 of this code, and Chapter 2001, Occupations Code, expire September 1, 2013 [~~2011~~].

SECTION 2.14. TEXAS DEPARTMENT OF TRANSPORTATION. (a) Section 201.204, Transportation Code, is amended to read as follows:

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2013 [~~2009~~].

(b) This section takes effect only if the 81st Legislature, Regular Session, 2009, does not enact other legislation that becomes law and that amends Section 201.204, Transportation Code, to extend the sunset date of the Texas Department of Transportation. If the 81st Legislature, Regular Session, 2009, enacts legislation of that kind, this section has no effect.

SECTION 2.15. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION. Section 31.004(b), Insurance Code, is amended to read as follows:

(b) Unless continued as provided by Chapter 325, Government Code, the duties of the division of workers' compensation of the Texas Department of Insurance under Title 5, Labor Code, expire September 1, 2013 [~~2011~~], or another date designated by the legislature.

SECTION 2.16. OFFICE OF INJURED EMPLOYEE COUNSEL. Section 404.003, Labor Code, is amended to read as follows:

Sec. 404.003. SUNSET PROVISION. The office of injured employee counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2013 [~~2011~~].

Explanation: The changes are necessary to change the sunset review date for various state agencies.

HR 3051 - POINT OF ORDER

Representative Leibowitz raised a point of order against further consideration of **HR 3051** under Rule 8, Section 13 of the House Rules on the grounds that the deadline for consideration of conference committee reports had passed.

The speaker sustained the point of order.

ADJOURNMENT

Representative Leibowitz moved that the house adjourn until 10 a.m. today, June 1, in memory of Cliff McClellan of Peaster, Remijio Ramos of Fort Stockton, and Robyn Devorsky Little of Bellmead.

The motion prevailed by (Record 1727): 86 Yeas, 56 Nays, 4 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycoc; Berman; Bonnen; Branch; Brown, B.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Flores; Flynn; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Gutierrez; Hamilton; Hardcastle; Harper-Brown; Heflin; Herrero; Hilderbran; Hodge; Homer; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; King, P.; Kleinschmidt; Laubenberg; Legler; Leibowitz; Lewis; Martinez Fischer; McClendon; Merritt; Miller, D.; Morrison; Oliveira; Olivo; Orr; Otto; Parker; Patrick; Paxton; Riddle; Rodriguez; Sheffield; Shelton; Smith, T.; Smith, W.; Taylor; Turner, S.; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Anchia; Bohac; Bolton; Brown, F.; Callegari; Corte; Crabb; Darby; Deshotel; England; Fletcher; Geren; Guillen; Harless; Hartnett; Hernandez; Hochberg; Hopson; Isett; Jones; Keffer; Kent; King, S.; King, T.; Kolkhorst; Lucio; Madden; Maldonado; Marquez; Martinez; McCall; McReynolds; Menendez; Miklos; Miller, S.; Moody; Naishtat; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rose; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Vaught; Weber.

Present, not voting — Mr. Speaker(C); Edwards; Frost; Ortiz.

Absent, Excused — Hancock; Kuempel; Pierson.

Absent — Mallory Caraway.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1727. I intended to vote no.

Villarreal

The house accordingly, at 12:04 a.m. June 1, adjourned until 10 a.m. today.

ADDENDUM

SIGNED BY THE SPEAKER

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

House List No. 47

HB 10, HB 93, HB 130, HB 136, HB 192, HB 281, HB 383, HB 464, HB 556, HB 671, HB 673, HB 677, HB 748, HB 829, HB 986, HB 1012, HB 1043, HB 1138, HB 1259, HB 1290, HB 1309, HB 1462, HB 1544, HB 1770, HB 1787, HB 1822, HB 2013, HB 2113, HB 2127, HB 2212, HB 2256, HB 2344, HB 2346, HB 2360, HB 2425, HB 2450, HB 2515,

HB 2524, HB 2525, HB 2559, HB 2609, HB 2654, HB 2668, HB 2685,
HB 2779, HB 2805, HB 2845, HB 2932, HB 3009, HB 3041, HB 3072,
HB 3073, HB 3094, HB 3095, HB 3114, HB 3201, HB 3216, HB 3228,
HB 3433, HB 3502, HB 3594, HB 3628, HB 3635, HB 3717, HB 3762,
HB 3785, HB 3851, HB 3859, HB 3896, HB 4060, HB 4152, HB 4290,
HB 4294, HB 4300, HB 4311, HB 4338, HB 4433, HB 4435, HB 4451,
HB 4456, HB 4461, HB 4545, HB 4642, HB 4715, HB 4720, HB 4722,
HB 4727, HB 4728, HB 4730, HB 4755, HB 4765, HB 4767, HB 4778,
HB 4789, HB 4799, HB 4825, HB 4827, HB 4828, HCR 234, HCR 235,
HCR 236, HCR 240, HCR 241, HCR 242, HCR 253, HJR 7

House List No. 48

HB 55, HB 339, HB 358, HB 394, HB 461, HB 518, HB 719, HB 746,
HB 857, HB 1013, HB 1151, HB 1174, HB 1285, HB 1720, HB 1819,
HB 2154, HB 2161, HB 2462, HB 2504, HB 2570, HB 2619, HB 2656,
HB 2808, HB 2859, HB 2914, HB 2941, HB 2954, HB 3082, HB 3144,
HB 3186, HB 3202, HB 3445, HB 3480, HB 3481, HB 3669, HB 4031,
HB 4189, HB 4759, HCR 233, HCR 259, HJR 36

Senate List No. 44

SB 28, SB 359, SB 390, SB 395, SB 397, SB 415, SB 418, SB 448,
SB 449, SB 470, SB 480, SB 521, SB 571, SB 572, SB 581, SB 646, SB 652,
SB 671, SB 689, SB 698, SB 742, SB 876, SB 882, SB 883, SB 887, SB 904,
SB 963, SB 1024, SB 1112, SB 1127, SB 1153, SB 1166, SB 1171, SB 1204,
SB 1211, SB 1225, SB 1326, SB 1382, SB 1409, SB 1436, SB 1437, SB 1439,
SB 1441, SB 1515, SB 1571, SB 1598, SB 1599, SB 1609, SB 1650, SB 1672,
SB 1685, SB 1715, SB 1723, SB 1728, SB 1729, SB 1774, SB 1798, SB 1803,
SB 1820, SB 1824, SB 1853, SB 1932, SB 1984, SB 2085, SB 2135, SB 2148,
SB 2228, SB 2230, SB 2248, SB 2258, SB 2262, SB 2325, SB 2340, SB 2381,
SB 2385, SB 2420, SB 2424, SB 2435, SB 2512, SB 2517, SB 2524, SB 2550,
SB 2554, SB 2565, SCR 42, SCR 78

MESSAGES FROM THE SENATE

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

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Sunday, May 31, 2009

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

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

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1659	(31 Yeas, 0 Nays)
HB 1924	(31 Yeas, 0 Nays)
HB 2330	(31 Yeas, 0 Nays)
HB 2571	(31 Yeas, 0 Nays)
HB 2644	(31 Yeas, 0 Nays)
SB 328	(29 Yeas, 2 Nays)
SB 333	(31 Yeas, 0 Nays)
SB 488	(26 Yeas, 5 Nays)
SB 1009	(31 Yeas, 0 Nays)
SB 1182	(31 Yeas, 0 Nays)
SB 1557	(31 Yeas, 0 Nays)

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Sunday, May 31, 2009 - 2

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

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

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 72	(30 Yeas, 1 Nay)
HB 269	(30 Yeas, 1 Nay)
HB 882	(31 Yeas, 0 Nays)
HB 1914	(26 Yeas, 5 Nays)
HB 2310	(31 Yeas, 0 Nays)

HB 2328	(31 Yeas, 0 Nays)
HB 2649	(31 Yeas, 0 Nays)
HB 3218	(31 Yeas, 0 Nays)
HB 3632	(31 Yeas, 0 Nays)
SB 93	(31 Yeas, 0 Nays)
SB 956	(30 Yeas, 1 Nay)
SB 1219	(31 Yeas, 0 Nays)
SB 1757	(31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 31, 2009 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 148	(31 Yeas, 0 Nays)
HB 216	(31 Yeas, 0 Nays)
HB 666	(31 Yeas, 0 Nays)
HB 1030	(31 Yeas, 0 Nays)
HB 1041	(31 Yeas, 0 Nays)
HB 1357	(31 Yeas, 0 Nays)
HB 1801	(31 Yeas, 0 Nays)
HB 2347	(30 Yeas, 1 Nay)
HB 3065	(30 Yeas, 1 Nay)
HB 3309	(31 Yeas, 0 Nays)
HB 3737	(31 Yeas, 0 Nays)
HB 3768	(31 Yeas, 0 Nays)

HB 3864 (31 Yeas, 0 Nays)
HB 3983 (31 Yeas, 0 Nays)
HB 4275 (31 Yeas, 0 Nays)
HJR 127 (31 Yeas, 0 Nays)
SB 537 (31 Yeas, 0 Nays)
SB 679 (31 Yeas, 0 Nays)
SB 686 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 31, 2009 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 51 (31 Yeas, 0 Nays)
HB 451 (30 Yeas, 1 Nay)
HB 548 (31 Yeas, 0 Nays)
HB 764 (31 Yeas, 0 Nays)
HB 2086 (31 Yeas, 0 Nays)
HB 2153 (31 Yeas, 0 Nays)
HB 2169 (31 Yeas, 0 Nays)
HB 2240 (31 Yeas, 0 Nays)
HB 2647 (31 Yeas, 0 Nays)
HB 2730 (31 Yeas, 0 Nays)
HB 2917 (31 Yeas, 0 Nays)
HB 3076 (27 Yeas, 4 Nays)
HB 3461 (31 Yeas, 0 Nays)

HB 3637	(31 Yeas, 0 Nays)
HB 3676	(26 Yeas, 5 Nays)
HB 3751	(31 Yeas, 0 Nays)
HB 4009	(31 Yeas, 0 Nays)
HB 4424	(29 Yeas, 2 Nays)
SB 52	(30 Yeas, 1 Nay)
SB 434	(31 Yeas, 0 Nays)
SB 497	(31 Yeas, 0 Nays)
SB 1273	(31 Yeas, 0 Nays)
SB 1449	(31 Yeas, 0 Nays)
SB 1759	(31 Yeas, 0 Nays)
SB 2274	(30 Yeas, 1 Nay)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 31, 2009 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 469	(31 Yeas, 0 Nays)
HB 498	(27 Yeas, 4 Nays)
HB 1506	(30 Yeas, 1 Nay)
HB 1722	(31 Yeas, 0 Nays)
HB 2012	(30 Yeas, 1 Nay)
HB 2275	(31 Yeas, 0 Nays)
HB 2555	(31 Yeas, 0 Nays)
HB 3220	(31 Yeas, 0 Nays)

HB 3221	(31 Yeas, 0 Nays)
HB 3335	(31 Yeas, 0 Nays)
HB 3347	(31 Yeas, 0 Nays)
HB 3389	(31 Yeas, 0 Nays)
HB 3452	(31 Yeas, 0 Nays)
HB 3479	(31 Yeas, 0 Nays)
HB 3872	(31 Yeas, 0 Nays)
HB 4102	(31 Yeas, 0 Nays)
HB 4498	(31 Yeas, 0 Nays)
HB 4583	(31 Yeas, 0 Nays)
HB 4833	(31 Yeas, 0 Nays)
SB 379	(31 Yeas, 0 Nays)
SB 968	(31 Yeas, 0 Nays)
SB 1068	(31 Yeas, 0 Nays)
SB 1263	(31 Yeas, 0 Nays)
SB 2468	(31 Yeas, 0 Nays)
SB 2513	(31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 31, 2009 - 6

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 3	(31 Yeas, 0 Nays)
HB 103	(27 Yeas, 4 Nays)
HB 432	(29 Yeas, 2 Nays)

HB 537	(31 Yeas, 0 Nays)
HB 770	(30 Yeas, 1 Nay)
HB 963	(31 Yeas, 0 Nays)
HB 1161	(31 Yeas, 0 Nays)
HB 1218	(31 Yeas, 0 Nays)
HB 1343	(30 Yeas, 1 Nay)
HB 1795	(28 Yeas, 2 Nays)
HB 2000	(28 Yeas, 3 Nays)
HB 2163	(31 Yeas, 0 Nays)
HB 2374	(31 Yeas, 0 Nays)
HB 2582	(31 Yeas, 0 Nays)
HB 2591	(30 Yeas, 0 Nays, 1 Present, not voting)
HB 2888	(31 Yeas, 0 Nays)
HB 2919	(29 Yeas, 2 Nays)
HB 3612	(30 Yeas, 1 Nay)
HB 3653	(31 Yeas, 0 Nays)
HB 3689	(31 Yeas, 0 Nays)
SB 726	(31 Yeas, 0 Nays)
SB 1011	(31 Yeas, 0 Nays)
SB 1645	(31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 30

Judiciary and Civil Jurisprudence - **SCR 59**

ENGROSSED

May 30 - HCR 50

ENROLLED

May 30 - HB 58, HB 200, HB 319, HB 694, HB 773, HB 871, HB 1038, HB 1187, HB 1275, HB 1310, HB 1325, HB 1423, HB 1517, HB 1614, HB 1633, HB 1665, HB 1711, HB 1799, HB 1841, HB 1888, HB 1937, HB 1945, HB 1946, HB 2291, HB 2307, HB 2348, HB 2368, HB 2438, HB 2556, HB 2642, HB 2703, HB 2708, HB 2751, HB 2925, HB 2961, HB 3089, HB 3113, HB 3226, HB 3330, HB 3352, HB 3353, HB 3417, HB 3438, HB 3547, HB 3654, HB 3854, HB 3861, HB 3866, HB 4412, HB 4471, HB 4501, HB 4529, HB 4704, HB 4742, HB 4745, HB 4775, HB 4785, HB 4795, HB 4800, HB 4818, HB 4829, HCR 22, HCR 161, HCR 184, HCR 228, HCR 243, HCR 254, HJR 85, HJR 102, HJR 132

SIGNED BY THE GOVERNOR

May 30 - HB 271, HB 392, HB 448, HB 492, HB 549, HB 1342, HB 1363, HB 1468, HB 2032, HB 2064, HB 2530, HB 2877, HB 3303, HCR 10, HCR 65, HCR 85, HCR 94, HCR 97, HCR 141, HCR 142, HCR 143, HCR 144, HCR 145, HCR 146, HCR 147, HCR 165, HCR 167, HCR 169, HCR 170, HCR 178, HCR 179, HCR 189, HCR 190, HCR 191, HCR 200, HCR 201, HCR 202, HCR 203

