

# HOUSE JOURNAL

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EIGHTY-SECOND LEGISLATURE, FIRST CALLED SESSION

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## PROCEEDINGS

FIFTEENTH DAY — MONDAY, JUNE 27, 2011

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 127).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent, Excused — Driver; Mallory Caraway; Taylor, V.

Absent — Gutierrez.

The invocation was offered by Representative Perry.

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

### LEAVES OF ABSENCE GRANTED

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

Mallory Caraway on motion of Turner.

The following member was granted leave of absence for today and the remainder of the week because of a death in the family:

Driver on motion of Jackson.

**HR 197 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 197**, suspending the limitations on the conferees for **SB 2**.

**HR 198 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 198**, suspending the limitations on the conferees for **SB 6**.

**HR 199 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 199**, suspending the limitations on the conferees for **SB 8**.

**HR 200 - ADOPTED  
(by Deshotel)**

Representative Deshotel moved to suspend all necessary rules to take up and consider at this time **HR 200**.

The motion prevailed.

The following resolution was laid before the house:

**HR 200**, Congratulating Hilton Kelley of Port Arthur on his receipt of a 2011 Goldman Environmental Prize.

**HR 200** was read and was adopted.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Deshotel who introduced Hilton Kelley and his wife, Marie.

**RESOLUTIONS ADOPTED**

Representative S. Davis moved to suspend all necessary rules to take up and consider at this time **HR 180**, **HR 181**, and **HR 182**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 180** (by S. Davis), Commemorating the dedication of a historical marker in memory of Texas pioneer Obedience Fort Smith of Houston.

**HR 181** (by S. Davis), Congratulating Ronald G. Giroto on the occasion of his retirement as president and CEO of the Methodist Hospital System in Houston.

**HR 182** (by S. Davis), Commemorating the dedication of Evelyn's Park in Bellaire.

The resolutions were adopted.

**HR 196 - ADOPTED**  
**(by Dukes, Naishtat, and D. Howard)**

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 196**.

The motion prevailed.

The following resolution was laid before the house:

**HR 196**, Honoring the Intellectual Entrepreneurship Consortium at The University of Texas at Austin for its innovative leadership in the realm of higher education.

**HR 196** was adopted.

**HR 138 - ADOPTED**  
**(by Zedler)**

Representative Zedler moved to suspend all necessary rules to take up and consider at this time **HR 138**.

The motion prevailed.

The following resolution was laid before the house:

**HR 138**, Commending Bill Carlisle for his 14 years of service as an officer in the Arlington Kiwanis Club.

**HR 138** was adopted.

**HR 167 - ADOPTED**  
**(by Lozano)**

Representative Lozano moved to suspend all necessary rules to take up and consider at this time **HR 167**.

The motion prevailed.

The following resolution was laid before the house:

**HR 167**, Congratulating Elizabeth F. Springs of Kingsville on her participation in the NASA High School Aerospace Scholars program.

**HR 167** was adopted.

On motion of Representative Muñoz, the names of all the members of the house were added to **HR 167** as signers thereof.

(Aycock in the chair)

**HR 207 - ADOPTED**  
**(by Gallego)**

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 207**.

The motion prevailed.

The following resolution was laid before the house:

**HR 207**, Congratulating Joyce Lindsey on the occasion of her retirement as associate director of the Texas Access to Justice Foundation.

**HR 207** was adopted.

On motion of Representative Martinez, the names of all the members of the house were added to **HR 207** as signers thereof.

**HR 208 - ADOPTED**  
**(by Hilderbran)**

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 208**.

The motion prevailed.

The following resolution was laid before the house:

**HR 208**, Congratulating Dorothy Grace Turner Jenkins of Kerrville on the occasion of her 90th birthday.

**HR 208** was adopted.

**HR 201 - ADOPTED**  
**(by Martinez Fischer)**

Representative Martinez Fischer moved to suspend all necessary rules to take up and consider at this time **HR 201**.

The motion prevailed.

The following resolution was laid before the house:

**HR 201**, In memory of Ralph M. Lazarine of San Antonio.

**HR 201** was unanimously adopted by a rising vote.

On motion of Representative Muñoz, the names of all the members of the house were added to **HR 201** as signers thereof.

**HR 179 - ADOPTED**  
**(by Perry)**

Representative Perry moved to suspend all necessary rules to take up and consider at this time **HR 179**.

The motion prevailed.

The following resolution was laid before the house:

**HR 179**, Congratulating Wendell Dee Moore of Lubbock on being recognized by the Texas State Board of Public Accountancy for maintaining his CPA license for 50 years.

**HR 179** was adopted.

(Speaker in the chair)

**HCR 22 - ADOPTED**  
**(by Madden, et al.)**

Representative Madden moved to suspend all necessary rules to take up and consider at this time **HCR 22**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 22**, Commending the members of the Texas Supreme Court for their actions in support of legal aid services and honoring them for their work in promoting access to justice for the state's most vulnerable citizens.

**HCR 22** was read and was adopted.

On motion of Representative Hartnett, the names of all the members of the house were added to **HCR 22** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Hartnett who introduced justices of the Supreme Court of Texas.

(Gutierrez now present)

**HB 3 - HOUSE REFUSES TO CONCUR**  
**IN SENATE AMENDMENTS**  
**CONFERENCE COMMITTEE APPOINTED**

Representative L. Taylor called up with senate amendments for consideration at this time,

**HB 3**, A bill to be entitled An Act relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.

Representative L. Taylor moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3**: Smithee, chair; Hancock, L. Taylor, Thompson, and Scott.

**SB 7 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Zerwas submitted the conference committee report on **SB 7**.

**SB 7 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE WOOLLEY: The bill you bring before us today for concurrence contains an amendment by Mr. Hardcastle that creates an autologous stem cell bank. Is that correct?

REPRESENTATIVE ZERWAS: That's correct.

WOOLLEY: I would like to establish some legislative intent pertaining to the creation of this bank. Do you agree that autologous stem cells are blood-forming cells (cells from which all blood cells develop), are removed from an individual, stored, and later given back to the same individual, and that no other stem cells fall in this category?

ZERWAS: Yes, I do.

WOOLLEY: Do you recognize that Texas remains a national leader in breaking new ground in treatment and cure of horrible diseases and injuries with autologous stem cells?

ZERWAS: Texas has made great strides with the use of autologous stem cells.

WOOLLEY: Do you recognize that the state has made significant investments in this area of stem cell research because we know that this is a promising and hopeful therapy for health concerns such as heart disease, stroke, and repair of brain injury to children?

ZERWAS: Yes, there's been some great early advancements in the use of autologous cells for brain injury in children, as well as heart disease.

WOOLLEY: Given the nature of these treatments, do you recognize that there is currently significant regulation by at least the Federal Drug Administration which guards the safety interest of the patient and the public?

ZERWAS: Correct. There is, I think, significant regulation at the federal level in that regard.

WOOLLEY: Is it your intent to delay or impede the promising research in Texas?

ZERWAS: No, absolutely not. If anything, we want to continue to promote Texas as a great place for autologous stem cell research to occur.

WOOLLEY: Is it your intent to further support the physicians and researchers in Texas who are leading discoveries by not including them in any potential rulemaking requirements?

ZERWAS: Our intent would be to include all the individuals, the appropriate stakeholders in order to develop a robust amount of research on autologous stem cells.

REPRESENTATIVE THOMPSON: Is it your intent that the commissioner look carefully at the practices of an autologous stem cell bank that would be subject to rulemaking under this chapter to ensure that any potential regulation does not impede the hope that treatments developed throughout Texas are bringing to patients in need?

ZERWAS: The intent is to continue to include the stakeholders in any rulemaking that might be involved in the advancement of autologous stem cell research. And so, if I understand the question correctly, it's not the intent to box out anybody who has a stake in terms of the research that goes in autologous stem cells.

THOMPSON: So your answer would be yes?

ZERWAS: I believe that's yes.

THOMPSON: Do you agree that the bill has no effect on umbilical cord blood banks that operate in Texas?

ZERWAS: It has no effect.

### REMARKS ORDERED PRINTED

Representative Thompson moved to print remarks between Representative Zerwas and Representative Thompson and between Representative Zerwas and Representative Woolley.

The motion prevailed.

### LEAVES OF ABSENCE GRANTED

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

V. Taylor on motion of Lewis.

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Anchia on motion of Farrar.

Lucio on motion of Hernandez Luna.

### SB 7 - (consideration continued)

Representative Zerwas moved to adopt the conference committee report on **SB 7**.

The motion to adopt the conference committee report on **SB 7** prevailed by (Record 128): 96 Yeas, 48 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Brown; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Marquez; Martinez; Martinez Fischer;

McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Patrick; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Driver; Lucio; Mallory Caraway; Taylor, V.

### STATEMENT OF VOTE

I was shown voting no on Record No. 128. I intended to vote yes.

Patrick

### REASONS FOR VOTE

While I support the withholding of state resources from being used to perform abortions, I oppose the health care compact and the HMO (managed care) expansion in South Texas measures in **SB 7**.

Guillen

While I fully support the pro-life part of the bill and my record fully reflects my pro-life platform, I voted against **SB 7** because of the managed care part of the bill which will reduce the quality of medical care in South Texas.

Lozano

While I fully support the pro-life amendments that are part of the bill, I voted against **SB 7** because of the negative impact the bill will have on the quality, availability, and service of medical care in South Texas and throughout the state.

Muñoz

### RESOLUTIONS ADOPTED

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HCR 26** and **HR 212**.

The motion prevailed.

The following resolutions were laid before the house:

**HCR 26** (by Bonnen), Congratulating the baseball team of Brazoswood High School in Clute on winning the 2011 UIL 5A state championship.

**HR 212** (by Bonnen), Congratulating the Danbury High School softball team on winning the UIL 2A state championship.

The resolutions were adopted.

### HCR 25 - ADOPTED (by Zerwas)

The following privileged resolution was laid before the house:

### HCR 25

WHEREAS, **SB 7** has been adopted by the senate and the house of representatives; and



WHEREAS, The bill contains technical errors that should be corrected; now, therefore, be it

RESOLVED by the 82nd Legislature of the State of Texas, 1st Called Session, That the enrolling clerk of the senate be instructed to make the following correction to **SB 7** (corrected conference committee report printing):

In SECTION 16.01 of the bill (page 185, line 22), between "of any required" and "and execution of any necessary contract", insert "waivers or state plan amendments, and the preparation".

**HCR 25** was adopted by (Record 129): 139 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Castro.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Driver; Lucio; Mallory Caraway; Taylor, V.

Absent — Coleman; Eiland; Hardcastle; Hernandez Luna.

**HR 209 - ADOPTED**  
**(by Thompson)**

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 209**.

The motion prevailed.

The following resolution was laid before the house:

**HR 209**, Congratulating June Lohman on the occasion of her retirement from Comcast.

**HR 209** was adopted.

**HR 177 - ADOPTED**  
**(by Y. Davis)**

Representative Y. Davis moved to suspend all necessary rules to take up and consider at this time **HR 177**.

The motion prevailed.

The following resolution was laid before the house:

**HR 177**, In memory of civil rights activist and former Dallas City Council member Al Lipscomb.

**HR 177** was unanimously adopted by a rising vote.

On motion of Representative Alonzo, the names of all the members of the house were added to **HR 177** as signers thereof.

**RECESS**

At 11:51 a.m., the speaker announced that the house would stand recessed until 1:15 p.m. today.

**AFTERNOON SESSION**

The house met at 1:15 p.m. and was called to order by the speaker.

**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. 3).

**HR 197 - ADOPTED**  
**(by Pitts)**

The following privileged resolution was laid before the house:

**HR 197**, suspending limitations on conference committee jurisdiction, **SB 2**.

**HR 197** was adopted by (Record 130): 98 Yeas, 40 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzales, V.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Carter; Castro; Coleman; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lozano; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Anchia; Driver; Lucio; Mallory Caraway; Taylor, V.

Absent — Branch; Burnam; Eiland; Guillen; King, T.

### STATEMENT OF VOTE

I was shown voting present, not voting on Record No. 130. I intended to vote yes.

Deshotel

### SB 2 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the conference committee report on **SB 2**.

Representative Pitts moved to adopt the conference committee report on **SB 2**.

The motion to adopt the conference committee report on **SB 2** prevailed by (Record 131): 89 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Bonnen; Brown; Burnam; Castro; Christian; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Harless; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, S.; King, T.; Landtroop; Lozano; Lyne; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Driver; Lucio; Mallory Caraway; Taylor, V.

The speaker stated that **SB 2** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 131. I intended to vote yes.

Christian

I was shown voting yes on Record No. 131. I intended to vote no.

Margo

I was shown voting yes on Record No. 131. I intended to vote no.

Peña

### HR 198 - ADOPTED (by Eissler)

The following privileged resolution was laid before the house:

#### HR 198

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, 1st Called Session, 2011, 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 6** (foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools) to consider and take action on the following matter:

(1) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to change and add text on a matter which is not in disagreement in proposed SECTION 23 of the bill, in added Section 31.0211(c)(2)(B), Education Code, to read as follows:

(B) the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

Explanation: The change and addition of text are necessary to clarify that a school district may use the district's instructional materials allotment to pay the salary and other expenses of employees who provide technical support for the use of technological equipment directly related to student learning.

(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 proposed SECTION 27 of the bill, amending Section 31.0231, Education Code, to read as follows:

SECTION 27. Section 31.0231, Education Code, is amended to read as follows:

Sec. 31.0231. COMMISSIONER'S [~~ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIAL~~] LIST. (a) The commissioner shall adopt a list of:

(1) electronic instructional material [~~textbooks~~]; and

(2) ~~[instructional]~~ material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for:

(A) science in kindergarten through grade five; and

(B) personal financial literacy in kindergarten through grade eight.

(b) A school district may select ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a) to be funded by the district's instructional materials allotment ~~[state textbook fund]~~ under Section 31.0211 ~~[31.021]~~.

(c) Before the commissioner places ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a), the State Board of Education must be given an opportunity to comment on the ~~[electronic textbook or instructional]~~ material. If the commissioner places material on the list adopted under Subsection (a), the State Board of Education may, not later than the 90th day after the date the material is placed on the list, require the commissioner to remove the material from the list. Material ~~[An electronic textbook or instructional material]~~ placed on the list adopted under Subsection (a):

(1) must be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the ~~[electronic textbook or instructional]~~ material and experts in education technology;

(2) must satisfy criteria adopted for the purpose by commissioner rule; and

(3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

(d) The criteria adopted under Subsection (c)(2) must:

(1) include evidence of alignment with current research in the subject for which the ~~[electronic textbook or instructional]~~ material is intended to be used;

(2) include coverage of the essential knowledge and skills identified under Section 28.002 for the subject for which the ~~[electronic textbook or instructional]~~ material is intended to be used and identify:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the ~~[electronic textbook or instructional]~~ material; and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the ~~[electronic textbook or instructional]~~ material; and

(3) include appropriate training for teachers.

(e) The commissioner shall update, as necessary, the list adopted under Subsection (a). Before the commissioner places ~~[an electronic textbook or instructional]~~ material on the updated list, the requirements of Subsection (c) must be met. ~~[Before the commissioner removes an electronic textbook or instructional material from the updated list, the removal must be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.]~~

(f) After notice to the commissioner explaining in detail the changes, the provider of ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a) may update the navigational features or management system related to the ~~[electronic textbook or instructional]~~ material.

(g) After notice to the commissioner and a review by the commissioner, the provider of ~~[an electronic textbook or instructional]~~ material on the list adopted under Subsection (a) may update the content of the ~~[electronic textbook or instructional]~~ material if needed to accurately reflect current knowledge or information.

(h) The commissioner shall adopt rules as necessary to implement this section. The rules must:

(1) be consistent with Section 31.151 regarding the duties of publishers and manufacturers, as appropriate, and the imposition of a reasonable administrative penalty; and

(2) require public notice of an opportunity for the submission of ~~[an electronic textbook or instructional]~~ material.

Explanation: The change and omission of text are necessary to reflect the enactment and becoming law, effective June 17, 2011, of **SB 290**, Acts of the 82nd Legislature, Regular Session, 2011.

(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 34 of the bill, amending Section 31.027, Education Code, to read as follows:

SECTION 34. (a) If this Act takes effect immediately, Section 31.027, Education Code, is amended to read as follows:

Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC SAMPLE [COPIES]. (a) A publisher shall provide each school district and open-enrollment charter school with information that fully describes each of the publisher's submitted instructional materials ~~[adopted textbooks]~~. On request of a school district, a publisher shall provide an electronic [a] sample [copy] of submitted instructional material [an adopted textbook].

(b) A publisher shall provide an electronic [at least two] sample [copies] of each submitted instructional material [adopted textbook] to be maintained at each regional education service center.

(c) ~~[(d)]~~ This section does not apply to ~~[an]~~ open-source instructional material [textbook].

(b) If this Act does not take effect immediately, Section 31.027, Education Code, as effective September 1, 2011, is amended to read as follows:

Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC SAMPLE. (a) A publisher shall provide each school district and open-enrollment charter school with information that fully describes each of the publisher's submitted instructional materials ~~[adopted textbooks]~~. On request of a school district, a publisher shall provide an electronic sample of submitted instructional material [an adopted textbook].

(b) A publisher shall provide an electronic sample of each submitted instructional material [adopted textbook] to be maintained at each regional education service center.

(c) ~~(d)~~ This section does not apply to ~~(a)~~ open-source instructional material ~~[textbook]~~.

(c) If this Act takes effect immediately, Sections 2 and 3, **SB 391**, Acts of the 82nd Legislature, Regular Session, 2011, have no effect.

Explanation: The change and omission of text are necessary to reflect the enactment and becoming law, effective September 1, 2011, of **SB 391**, Acts of the 82nd Legislature, Regular Session, 2011.

**HR 198** was adopted by (Record 132): 136 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Farias.

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

Absent, Excused — Anchia; Driver; Lucio; Mallory Caraway; Taylor, V.

Absent — Burkett; Garza; Guillen; King, P.; Pickett; Torres.

### STATEMENTS OF VOTE

When Record No. 132 was taken, I was in the house but away from my desk. I would have voted yes.

Garza

I was shown voting present, not voting on Record No. 132. I intended to vote yes.

Rodriguez

When Record No. 132 was taken, I was in the house but away from my desk. I would have voted yes.

Torres

**SB 6 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Eissler submitted the conference committee report on **SB 6**.

Representative Eissler moved to adopt the conference committee report on **SB 6**.

The motion to adopt the conference committee report on **SB 6** prevailed by (Record 133): 142 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Farias.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Driver; Lucio; Mallory Caraway; Taylor, V.

Absent — Gallego.

**STATEMENT OF VOTE**

I was shown voting no on Record No. 133. I intended to vote yes.

Farias

**HR 199 - ADOPTED  
(by Eissler)**

The following privileged resolution was laid before the house:

**HR 199**

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, 1st Called Session, 2011, 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 8** (the flexibility



of the board of trustees of a school district in the management and operation of public schools in the district) to consider and take action on the following matters:

(1) 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 new SECTIONS to the bill:

SECTION 2. Section 21.051, Education Code, is amended to read as follows:

Sec. 21.051. RULES REGARDING FIELD-BASED EXPERIENCE AND OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS. (a) In this section, "teacher of record" means a person employed by a school district who teaches the majority of the instructional day in an academic instructional setting and is responsible for evaluating student achievement and assigning grades.

(b) Before a school district may employ a candidate for certification as a teacher of record, the candidate must complete at least 15 hours of field-based experience in which the candidate is actively engaged in instructional or educational activities under supervision at:

(1) a public school campus accredited or approved for the purpose by the agency; or

(2) a private school recognized or approved for the purpose by the agency.

(c) Subsection (b) applies only to an initial certification issued on or after September 1, 2012. Subsection (b) does not affect:

(1) the validity of a certification issued before September 1, 2012; or

(2) the eligibility of a person who holds a certification issued before September 1, 2012, to obtain a subsequent renewal of the certification in accordance with board rule.

(d) Subsection (b) does not affect the period within which an individual must complete field-based experience hours as determined by board rule if the individual is not accepted into an educator preparation program before the deadline prescribed by board rule and is hired for a teaching assignment by a school district after the deadline prescribed by board rule.

(e) The board shall propose rules relating to the field-based experience required by Subsection (b). The commissioner by rule shall adopt procedures and standards for recognizing a private school under Subsection (b)(2).

(f) The board shall propose rules providing flexible options for persons for any field-based [~~field~~] experience or internship required for certification.

SECTION 22. On or before January 1, 2012, the State Board for Educator Certification shall propose rules relating to educator certification as prescribed by Section 21.051, Education Code, as amended by this Act.

Explanation: The addition is necessary to establish requirements for field-based experience that a candidate for certification must meet before a school district may employ the candidate as a teacher of record.

(2) 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 at the end of proposed Section 21.4021(e), Education Code, in SECTION 16 of the bill:

A furlough day does not constitute a day of service for purposes of the Teacher Retirement System of Texas.

Explanation: The addition is necessary to clarify that a school district furlough day does not constitute a day of service for purposes of the Teacher Retirement System of Texas.

**HR 199** was adopted by (Record 134): 93 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzales, V.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Carter; Castro; Coleman; Darby; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hilderbran; Hochberg; Johnson; King, T.; Lozano; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Phillips; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Driver; Lucio; Mallory Caraway; Taylor, V.

Absent — Hernandez Luna.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 134. I intended to vote no.

V. Gonzales

When Record No. 134 was taken, I was in the house but away from my desk. I would have voted no.

Hernandez Luna

I was shown voting yes on Record No. 134. I intended to vote no.

D. Howard

**SB 8 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Eissler submitted the conference committee report on **SB 8**.

**SB 8 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE HANCOCK: Mr. Eissler, just for clarification purposes, there's some provisions in the law regarding contracts. We can already change procedural things, such as timelines within a contract, but would you agree with me that the legislature by statute cannot impair substantive rights that are vested under the existing contracts?

REPRESENTATIVE EISSLER: That's correct. It's prospective, not looking to invade current contracts.

REPRESENTATIVE PATRICK: Chairman Eissler, thank you for your work on this bill. I would like to clarify legislative intent on page 13, line 19 of the conference committee report. It states, "The board of trustees may not implement a furlough program or salary reduction until a district has complied with this section." And it's my understanding that the intent is that the district shall comply with this section before. In other words, this is not permissive for the district board, is that correct?

EISSLER: Yes, as long as they conform with it, that's correct.

PATRICK: So in other words, they "may" not, or they "shall" not, is the intent?

EISSLER: Right.

PATRICK: So, it's not a choice for them to do, or not to do, the following steps if they do implement a furlough program?

EISSLER: Right. There are requirements for a furlough to occur, among them being a level of funding equal to 1011 and a public hearing, I believe. I think that's what you are looking for, right?

PATRICK: Right. Well, what I am referring to specifically includes the involvement of the district professional staff and provides district employees with the opportunity to express opinions. That's the section I'm referring to.

EISSLER: Yes, and also, you are looking at a couple of amendments you yourself added.

PATRICK: Yes. But I just wanted to clarify, because "may" or "shall" is troubling. We do mean shall, there is not a choice?

EISSLER: Yes, that's correct.

**REMARKS ORDERED PRINTED**

Representative Patrick moved to print remarks between Representative Eissler and Representative Hancock and between Representative Eissler and Representative Patrick.

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. 1).

**LEAVE OF ABSENCE GRANTED**

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

Bohac on motion of Madden.

**SB 8 - (consideration continued)****SB 8 - POINT OF ORDER**

Representative Farrar raised a point of order against further consideration of the conference committee report on **SB 8** under Rule 13, Section 3(b), Rule 13, Section 9(a), and Rule 13, Section 11(a) of the House Rules on the grounds that the text of the bill that was not in disagreement between the two houses was changed and the conference committee report was filed less than 24 hours before it was taken up for consideration.

The speaker overruled the point of order.

**SB 8 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE GARZA: Members, I just want to take a moment to talk in support of **SB 8**. I want to really congratulate my superintendents in my district that came and met with me in Austin. And Chairman Eissler was so gracious to come in and speak with them when we met here just a few weeks ago. And I will tell you, Chairman Thompson, that the people I talk to every day in my district have taken pay cuts. I've taken a pay cut of close to 50 percent over two years ago. The people I talk to everyday in my district—I love teachers. My sister is a teacher. I have a niece that's a teacher that says she's going to come up to my house and protest me if I vote for **SB 8** because she doesn't understand that the superintendents have asked us for these reforms, for these abilities to control their own budgets, to run their business in the district.

Because it is a business. The business of educating our children is that each and every one of the constituents in my district pay taxes, hard-earned money to feed their kids and children. My children, I have five children, and two grandchildren, and I've educated each and every one of them in public schools.

And I hold my school boards, and my superintendents, and each teacher—and every teacher I've talked to is excellent, and they want to do the best job. But we're in tough times in Texas and in this nation right now, and we have to rely on leadership in the districts themselves. And each and every one of those superintendents told me these are things that we need to bring things in line, to be able to control our own budgets, and to not be mandated in these areas that Chairman Eissler brought into consideration under this bill.

Now, they didn't admit that to their constituents during the politicizing of these issues. But when it came down not one of my districts—Southwest Independent School District, I met and went out to Medina Valley Independent School District, and they showed me how much they're getting funded versus

what they did. They improved their school district from a recognized school district to an exemplary, one of the few in Texas, on the low budgets they received because they took time to control their budgets, to control their expenditures, and they paid their teachers some of the highest salaries compared to districts in their same rating. Southwest Independent School District, Northside Independent School District, Southside Independent School District, every school district in my District 117 did not lay off one school teacher, not one school teacher. But, they're making—and they've told me, "John, we can get through this session, but we need help next session. We can get through." They have rainy day funds. They have reserves, but they want to keep those reserves intact, as well, for the future.

We have to have confidence in the districts' abilities and the leadership ability that they're running our business of educating our children. And we have to give them the ability, and the confidence, and the vote, that we expect them to do the right thing, make the right decisions. And they did. They did not lay off one school teacher in my district. So I want to support my superintendents in my District 117 for the job they're doing. I want to thank the students and the parents.

REPRESENTATIVE TURNER: Representative Garza, you're saying that your local school district did not have to lay off any school teachers?

GARZA: As of this date.

TURNER: Okay, that being the case. If that being the case, then there is no need for your district to need **SB 8**, correct? Why would you vote for a bill that is not needed in your district?

GARZA: Again, chairman, this is giving them the ability to run the business of educating our children, which I think they can do better than me and you.

TURNER: I understand that. I understand that, and—

GARZA: If they asked for this, then why wouldn't we give it to them?

TURNER: But if your district did not have to lay off one single school teacher, there is no reason for your district to need **SB 8**. And if your district does not need **SB 8**, then why would you inflict **SB 8** on the rest of us? I applaud you for your district, but if your district doesn't need it, then I would appreciate you not inflicting it on the rest of us who don't need it.

GARZA: Mr. Chairman, I would invite the superintendents of your school district to come and talk and with our superintendents. And we need to look at best practices of the different districts and see who's doing the better job on expenditures in building the new schools, in spending the money that is already appropriated. Not all, very little has to do with school teachers. It has to do with budgeting. It has to do with expenditures. It has to do with the district being able to spend their monies the way they see fit. And no one in my district, and none of my superintendents, say that any teachers are getting a pay cut. In fact, they are some of the best paid teachers in their—

TURNER: Representative Garza?

GARZA: Yes, sir?

TURNER: Do you believe that teachers are being paid too much? Do you believe that local school teachers, public school teachers, are being paid too much?

GARZA: No, I don't.

TURNER: Okay. If you don't believe they are being paid too much, then why would you support a bill that has the potential of lowering their pay?

GARZA: I don't believe they're being paid too low, either.

TURNER: But, do you believe that their pay should be reduced?

GARZA: I believe that they should be paid for the job that they do, the effectiveness of what they do in the classroom, and what they achieve as a school, as a group, because that's how we do it in business.

### REMARKS ORDERED PRINTED

Representative Farias moved to print remarks between Representative Garza and Representative Turner and remarks by Representative Garza.

The motion prevailed.

Representative Eissler moved to adopt the conference committee report on **SB 8**.

The motion to adopt the conference committee report on **SB 8** prevailed by (Record 135): 80 Yeas, 63 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Paxton; Perry; Price; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Truitt; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Brown; Burnam; Carter; Castro; Coleman; Darby; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Hopson; Howard, D.; Johnson; King, S.; King, T.; Landtroop; Lewis; Lozano; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Patrick; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Strama; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Bohac; Driver; Lucio; Mallory Caraway; Taylor, V.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 135. I intended to vote no.

Harless

I was shown voting yes on Record No. 135. I intended to vote no.

C. Howard

(Keffer in the chair)

### HR 213 - ADOPTED

(by Alonzo)

Representative Alonzo moved to suspend all necessary rules to take up and consider at this time **HR 213**.

The motion prevailed.

The following resolution was laid before the house:

**HR 213**, Honoring Glenda Lyzette Avila-Salazar of Dallas.

**HR 213** was adopted.

### HR 171 - ADOPTED

(by Eissler)

Representative Eissler moved to suspend all necessary rules to take up and consider at this time **HR 171**.

The motion prevailed.

The following resolution was laid before the house:

**HR 171**, Congratulating The Woodlands High School softball team on winning the UIL 5A state championship.

**HR 171** was adopted.

(Geren in the chair)

### 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).

(Speaker in the chair)

### POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

### HB 19 ON SECOND READING

(by Aycock)

**HB 19**, A bill to be entitled An Act relating to hearings on public school educator contracts.

**HB 19** was read second time on June 16, postponed until June 21, postponed until June 22, and was again postponed until 5:30 a.m. June 24.

Representative Aycock moved to postpone consideration of **HB 19** until 12 p.m. Sunday, December 25.

The motion prevailed.

**HB 17 ON SECOND READING**  
**(by Callegari)**

**HB 17**, A bill to be entitled An Act relating to the minimum salary for and minimum service required of certain public school employees.

**HB 17** was read second time on June 16, postponed until June 21, postponed until June 22, and was again postponed until 9 a.m. June 24.

Representative Callegari moved to postpone consideration of **HB 17** until 10 a.m. Friday, September 23.

The motion prevailed.

**HB 20 ON SECOND READING**  
**(by Huberty)**

**HB 20**, A bill to be entitled An Act relating to notice required for termination of a teacher's probationary contract or nonrenewal of a teacher's term contract.

**HB 20** was read second time on June 14, postponed until June 17, postponed until June 22, and was again postponed until 10 a.m. today.

Representative Huberty moved to postpone consideration of **HB 20** until 5 p.m. Thursday, December 29.

The motion prevailed.

**HB 21 ON SECOND READING**  
**(by Shelton)**

**HB 21**, A bill to be entitled An Act relating to the reduction in force of teachers employed by a school district.

**HB 21** was read second time on June 14, postponed until June 17, postponed until June 22, and was again postponed until 10 a.m. today.

Representative Shelton moved to postpone consideration of **HB 21** until 5 p.m. Monday, July 18.

The motion prevailed.

**GENERAL STATE CALENDAR**  
**HOUSE BILLS**  
**SECOND READING**

The following bills were laid before the house and read second time:



**HB 41 ON SECOND READING**  
**(by Simpson, et al.)**

**HB 41**, A bill to be entitled An Act relating to prosecution and punishment for the offense of official oppression by the intrusive touching of persons seeking access to public buildings and transportation; providing penalties.

**Amendment No. 1**

Representative Simpson offered the following amendment to **HB 41**:

Amend **HB 41** (house committee printing) as follows:

(1) On page 1, line 8, strike "and (c-3)" and substitute "(c-3), (c-4), and (c-5)".

(2) On page 2, line 2, between "a" and "search", insert "constitutionally unreasonable".

(3) On page 2, line 5, strike the colon and substitute ", and in violation of the United States Constitution, touches the sexual organ, breast, buttocks, or anus of the other person, including touching through clothing.".

(4) On page 2, strike lines 6-11.

(5) On page 3, lines 3 and 4, strike "with an explicit and applicable grant of federal statutory authority that is consistent".

(6) On page 3, between lines 16 and 17, insert the following:

(c-4) It is a defense to prosecution for a person described by Subsection (c-1)(1) or (2) that a reasonable person in the defendant's position would have believed the defendant's conduct to be lawful.

(c-5) This section shall be construed, as a matter of state law, to be enforceable up to but no further than the maximum possible extent consistent with federal constitutional requirements, even if that construction is not readily apparent, as such constructions are authorized only to the extent necessary to save the section from judicial invalidation. If any court determines that a provision of this section is unconstitutionally vague, the court shall interpret the provision, as a matter of state law, to avoid the vagueness issue and shall enforce the provision to the maximum possible extent.

(7) On page 4, strike lines 12-17.

(8) On page 4, line 18, strike "SECTION 4" and substitute "SECTION 3".

Amendment No. 1 was adopted.

**Amendment No. 2**

Representatives Fletcher and S. Miller offered the following amendment to **HB 41**:

Amend **HB 41** (house committee report) on page 1, line 24, through page 2, line 1, by striking "probable cause to believe the other person committed an offense" and substituting "reasonable suspicion of the presence of an unknown, unlawful, or prohibited object".

**AMENDMENT NO. 2 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE BRANCH: Is it your understanding, based on a conversation we had a few minutes ago, that this is the position of the final change requested by the Texas Association of District and County Attorneys?

REPRESENTATIVE FLETCHER: Yes, sir, it is.

BRANCH: And by putting this reasonable suspicion language in, and the additional words that you read out that are now in the bill, that they're now agreed to this language?

FLETCHER: Yes, sir, they are.

Amendment No. 2 was adopted.

**HB 41 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE BRANCH: Mr. Simpson, your amendment as amended by Mr. Fletcher includes not only now the earlier comments of May 21, but also today's comments by the Association of District and County Attorneys, as well as a letter we've received from the Office of the Attorney General, today, this afternoon.

REPRESENTATIVE SIMPSON: Yes, sir.

BRANCH: Where they have signed off on all the changes you have made to the bill since Friday?

SIMPSON: Yes. Most of these were made before then, but yes.

BRANCH: And so now, you've walked through the bill, and cleaned up the language, and amended it from what we had before us on Friday, Thursday and Friday of last week?

SIMPSON: There are some changes, yes.

BRANCH: At least in the terms of the Office of the Attorney General, and the Association of District and County Attorneys, that these were significant, important changes, legal changes, that will make your bill easier to defend in court, is that correct?

SIMPSON: Yes, all those changes were basically in there Friday, and we added one thing, Representative Fletcher's amendment, that they just requested.

BRANCH: I want to thank you for working with those two groups and those offices to improve this legislation.

SIMPSON: Thank you, Representative Branch, for all your assistance and guidance in getting this to this point.

REPRESENTATIVE LEWIS: I think it's clear, but I just want to make sure of this, also. The part of your original bill that if one intentionally, knowing, or directly causes physical contact with a person when the actor knew that it would be perceived as offensive or provocative, that's out now, correct?

SIMPSON: No, that's both specific language and general language in the bill.

LEWIS: All right, sir. Well, let me ask this. Is it still part of the offense if one intentionally, knowingly, or directly causes physical contact with the other person when the actor knows, or should reasonably believe, that the other person regards the contact as offensive or provocative? Is that still in the bill? I thought that was amended out.

SIMPSON: No, that's in the bill, and that's what has been reviewed by the attorney general, by the DA and CA association.

LEWIS: In what degree of crime is this to do that?

SIMPSON: This is a Class A misdemeanor.

### **Amendment No. 3**

Representative Gallego offered the following amendment to **HB 41**:

Amend **HB 41** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The legislature recognizes the tremendous role of law enforcement agencies in protecting the public. It is the intent of the legislature that the people of this state and each law enforcement agency serving this state have access to the highest and best technology so that each search performed for the purpose of granting access to a publicly accessible building or form of transportation is accomplished in the most efficient and least intrusive manner possible while maintaining the safety of the public and the integrity of the building or form of transportation.

Amendment No. 3 was adopted.

### **AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE LEWIS: Just to go back to this again for clarification purposes—the amendment that you have does take out that language that just the physical contact that might be considered as offensive, that part is now deleted by the amendment, is that correct?

REPRESENTATIVE SIMPSON: By the amendment, that's correct.

### **REMARKS ORDERED PRINTED**

Representative Branch moved to print remarks between Representative Fletcher and Representative Branch, between Representative Simpson and Representative Lewis, and between Representative Simpson and Representative Branch.

The motion prevailed.

**HB 41**, as amended, was passed to engrossment. (The vote was reconsidered on June 29, and **SB 29** was considered in lieu of **HB 41**.)





Respectfully,  
Patsy Spaw  
Secretary of the Senate