

# HOUSE JOURNAL

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EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

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EIGHTY-EIGHTH DAY — SATURDAY, MAY 28, 2011

The house met at 10:30 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 1630).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycok; 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

The invocation was offered by Reverend Eric Folkerth, pastor, Northaven United Methodist Church, Dallas, as follows:

Holy and Gracious God, we come before you on this day, on the final weekend of the 82nd Legislative Session. And as we pause before you in prayer, Holy God, we give you thanks for each of these esteemed members of our state government, for their families, their communities, and for the life experiences that led them to these honored positions. We know and understand the personal sacrifice that goes into being a public official: the time away from family, the long hours, the stress of the public spotlight. We give you thanks, O God, that these before us today have answered the call of public service, and we ask you to bless them.

In great humility, O God, we recall how you call us to be a holy people. You, O God, call governments to be holy manifestations of your will and desire for the world. Even foreign kings, such as Cyrus of Persia, you have used to

fulfill your holy will for God's people. So, O God, remind these leaders of our state that their decisions matter to you, that you care deeply about what they decide here. God, during their work here, help these servants of the State of Texas to be holy people and to leave partisan politics at the statehouse door.

But also, O God, help them to make Texas into a holy people. For you call us to account and we remember that your parable of the last judgment is a judgment upon the nations of the earth. And so make Texas into a holy people.

Make us into a holy people, O God, like the people of Israel whom God challenged to treat immigrants as if they were native born. Make us into a holy people, O God, like the church of St. Paul, who championed care for widows and orphans, the most marginalized people of his day. Make us into a holy people, O God, as Jesus taught, so that we might care for the sick, for those in prison, for those without clothing and shelter, for the least of these. And let us be reminded, as Jesus taught, that when we so care for others, we are caring for the face of God in the world. Make us into a holy people, O God, for we know when we search the scriptures that these are the kinds of holiness God calls our government to achieve.

And, God, when this session has finished, when the final bill has been passed and the last gavel comes down, when these elected servants are back in the quiet of their homes and praying to you in the privacy of their own hearts, accept their prayers of forgiveness for all the ways in which they will have fallen short of your holy vision. All these things we pray in your most holy and gracious name. Amen.

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

### **HOUSE AT EASE**

At 10:50 a.m., the speaker announced that the house would stand at ease pending the arrival of guests.

### **FALLEN HEROES MEMORIAL SERVICE (The House of Representatives and Senate in Joint Session)**

In accordance with the provisions of **HCR 163**, providing for a joint session of the senate and house of representatives for the purpose of a joint memorial session to honor Texans killed while serving in the Global War on Terrorism, Governor Rick Perry, the Honorable Steve Ogden, president pro tempore of the senate, and the honorable senators were announced at the door of the house and were admitted.

The Honorable Steve Ogden, president pro tempore of the senate, called the senate to order. A quorum of the senate was announced present.

The Honorable Joe Straus, speaker of the house, called the house to order. A quorum of the house of representatives was announced present.

Speaker Straus stated that the two houses were in joint session pursuant to **HCR 163** in honor of Texans killed while serving in the Global War on Terrorism and welcomed Governor Perry, Lieutenant Governor Dewhurst, members of the senate, and other state officials, and addressed the assemblage.

Speaker Straus recognized Representative Pickett who addressed the families of the honored fallen soldiers.

The joint session and assemblage rose for the posting of the colors.

Lieutenant Colonel Deon M. Green sang the national anthem.

Senator Hinojosa led the assemblage in the pledge of allegiance to the United States flag and Representative Sheffield led the assemblage in the pledge of allegiance to the Texas flag.

Speaker Straus recognized Representative Lavender who offered the invocation.

Speaker Straus recognized Representative Pickett to read **HCR 163**, convening a joint memorial session to honor Texans killed while serving in the Global War on Terrorism.

The service medley was played.

Senator Ogden addressed the joint session and assemblage.

Governor Perry addressed the joint session and assemblage, as follows:

Thank you, Senator Ogden, and my thanks also for the hard work put in by yourself and your colleagues in the senate, as well as the house through what has been a challenging session. It's a pleasure, and an honor, to be with you all today.

Every session, members from both chambers and both sides of the aisle take some time to put aside our differences and gather here in memory of those who have fallen in Afghanistan, Iraq, and anywhere our forces have engaged against the minions of global terror. The Global War on Terror began as a response to an unprovoked attack, an attack designed to demoralize us as much as to destroy our way of life. They miscalculated our ability, as a nation, to rise above the ruins, just as they miscalculated our resolve to continue the battle wherever it takes us, and our determination to bring to justice every organization and individual plotting death and destruction against the citizens of this nation.

Earlier this month, the United States scored a major victory in the Global War on Terror, as the main architect behind the September 11 attacks and the global face of the jihad movement, finally met justice at the hands of the U.S. military. This was once again a great credit to the bravery, hard work, and determination of our men and women in the armed forces, along with the unsung heroes in our intelligence community who had spent years of their lives in the line of fire hunting down this man.

However, the death of Bin Laden is not an end to the larger war, and the struggle to protect our homeland is ongoing. So we will continue to call upon the best and brightest to stand between us and those who would do us harm and join the long line that takes up arms to defend others. Many of them, like many I've visited with over the last decade, will come home facing long roads back from

debilitating injuries—some of the injuries visible, and some not. All too many will not come home at all. As we honor these brave Texans who made the ultimate sacrifice, we also continue to offer our heartfelt condolences to those who love them. It can be no easy thing to balance admiration for your fallen warrior with the realities of a life that continues to unfold, one challenging day after another. Please know that the people of Texas genuinely appreciate the service and sacrifice of our military personnel and lift up their survivors in our thoughts and prayers. As President Lincoln so eloquently wrote almost 150 years ago to a mourning mother, "I pray that our Heavenly Father may assuage the anguish of your bereavement and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom."

In the days to come, I encourage you to live your life fully because you know that each day is precious, and be assured that the cause for which your loved ones fought and died is still a just and noble cause. All of us in Texas must endeavor to live our lives in a fashion worthy of the sacrifices of your loved ones. May God bless you and, through you, may he continue to bless the great State of Texas.

Governor Perry presented flags flown over the Capitol to family members as Representatives Berman and Flynn and Senators Birdwell and Estes read the names of the following fallen soldiers:

Staff Sergeant Omar Aceves, Army; Staff Sergeant Jesse Wayne Ainsworth, Army; Private First Class Adriana Alvarez, Army; Private First Class John Edward Andrade, Sr., Army; Second Lieutenant Darryn Deen Andrews, Army; Lance Corporal Travis Thornton Babine, Marine Corps; Lance Corporal Christopher Shawn Baltazar, Jr., Marine Corps; Staff Sergeant Carlos Alonzo Benitez, Army; Private First Class Cody Allen Board, Army; Staff Sergeant Clayton Patrick Bowen, Army; Staff Sergeant Bryan Allan Burgess, Army; Staff Sergeant Scott Hamilton Burgess, Army; Sergeant Brandon Cole Bury, Marine Corps; Sergeant John P. Castro, Army; Specialist Matthew Ryan Catlett, Army; Petty Officer First Class Sean Leach Caughman, Navy; Specialist Joseph Brian Cemper, Army; Private First Class Benjamin Glen Chisholm, Army; Senior Airman Matthew Ryan Courtois, Air Force; Sergeant Zainah Caye Creamer, Army; Private First Class Peter Kyle Cross, Army; Sergeant David Alan Davis, Army; Sergeant Fernando de la Rosa, Army; Staff Sergeant Bradley Espinoza, Army; Specialist Joshua Ray Farris, Army; Technical Sergeant Michael Paul Flores, Air Force; Lance Corporal Garrett William Gamble, Marine; Sergeant Christian Anthony Saracho Garcia, Army; Staff Sergeant Esau Shalem Atanacio Gonzales, Army; Sergeant First Class Alejandro Granado III, U.S. Army National Guard; Specialist Jarrett Pearson Griemel, Army; Airman First Class Devon Jemail Harris, Army; Sergeant First Class Calvin Bernard Harrison, Army; Specialist Joshua Lee Hazlewood, Army Reserve; Lance Corporal Shawn Patrick Hefner, Marine Corps; Lance Corporal Derek Hernandez, Marine Corps;

Captain Jason Ellis Holbrook, Army; Private First Class Kyle Matthew Holder, Army; Sergeant Jay Michael Hoskins, Marine; Major Matthew Philip Houseal, Army; Staff Sergeant Quadi Shareem Hudgins, Army; Staff Sergeant Jesse Infante, Army; Corporal Jeffrey Warren Johnson, Marine Corps; Staff Sergeant Richard Joseph Jordan, Army; Lance Corporal Mark David Juarez, Marine Corps; Private First Class Ira Benjamin Laningham IV, Army; Lance Corporal Brandon Tyler Lara, Marine Corps; Corporal Jacob Carl Leicht, Marine Corps; Specialist Joseph Michael Lewis, Army; Staff Sergeant Edwardo Loredó, Army; Specialist Pedro Antonio Maldonado, Army; Lance Corporal Jose Luis Maldonado, Marine Corps; Specialist Alexis Vicente Maldonado, Army; Lance Corporal Shane Robert Martin, Marine Corps; Sergeant Kenneth Blaine May, Jr., Marine Corps; Staff Sergeant Chauncy Ryan Mays, Army; Staff Sergeant Mecolus C. McDaniel, Army; Staff Sergeant Shawn Henry McNabb, Army; Captain Joshua Stewart Meadows, Marine Corps; Staff Sergeant Joshua Micah Mills, Army; Private First Class Diego Miguel Montoya, Army; Staff Sergeant Michael Chance Murphrey, Army; Corporal Tevan Lee Nguyen, Marine Corps; Sergeant James Michael Nolen, Army; Private First Class Matthew Dwight Ogden, Army; Private First Class James Joseph O'Quin, Army; Specialist Jerod Heath Osborne, Army; Airman First Class Corey Charles Owens, Air Force; Sergeant Gregory Owens, Jr., Army; Specialist Bobby Justin Pagan, Army; Captain Paul Wenceslaus Pena, Army; Private First Class Joel A. Ramirez, Army; Lance Corporal Christopher Rangel, Marine Corps; Staff Sergeant Jason Allen Reeves, Army; Lance Corporal Matthew Gregory Reza, Marine Corps; Sergeant Mario Muñoz Rodríguez, Jr., Army; Specialist Andrew Jay Roughton, Army; Sergeant Cesar Bocanegra Ruiz, Marine Corps; Private First Class Colton Wesley Rusk, Marine Corps; Sergeant Jose Luis Saenz III, Marine Corps; Senior Airman Daniel Ray Sanchez, Air Force; Sergeant Jorge A. Scatliffe, Army; Staff Sergeant Jeremy Daniel Smith, Marine Corps; Specialist Omar Soltero, Army; Specialist Riley S. Spaulding, Army; Staff Sergeant Chris Neil Staats, Army National Guard; Private First Class Austin Garrett Staggs, Army; Lance Corporal Cody Robert Stanley, Marine Corps; Sergeant Kyle Brandon Stout, Army; Airman Darren Ethan Tate, Navy; Corporal Jorge Villarreal, Jr., Marine Corps; First Lieutenant Robert Forrest Welch III, Army; Staff Sergeant Leston Michael Winters, Army; Hospital Corpsman Third Class Zarian Andre Wood, Navy; Corporal Charles J. Wren, Army; Sergeant Vorasack T. Xaysana, Army.

The joint session and assemblage observed a moment of silence.

Lieutenant Colonel Deon M. Green sang "Amazing Grace."

A cannon salute was offered by the Texas Army National Guard Salute Battery.

"Taps" was played by the Texas Army National Guard Salute Battery.

Representative Lavender offered the benediction.

Speaker Straus and Senator Van de Putte thanked the attendees of today's service.

### **SENATE ADJOURNMENT**

At 12:52 p.m., Senator Ogden stated that the purpose for which the joint session was called had been completed and that the senate would, in accordance with a previous motion, stand adjourned until 2 p.m. today.

### **HOUSE AT EASE**

At 12:52 p.m., the speaker stated that the purpose of the joint session having been concluded, the house would stand at ease pending the departure of guests.

(Darby in the chair)

### **HR 2572 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2572**, suspending the limitations on the conferees for **HB 2694**.

### **HR 2571 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2571**, suspending the limitations on the conferees for **HB 2499**.

### **HR 2659 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2659**, suspending the limitations on the conferees for **SB 660**.

### **HR 2647 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2647**, suspending the limitations on the conferees for **SB 652**.

### **HR 2648 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2648**, suspending the limitations on the conferees for **HB 2605**.

### **HR 2611 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2611**, suspending the limitations on the conferees for **SB 1534**.

### **HR 2654 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2654**, suspending the limitations on the conferees for **HB 3275**.

**RECESS**

At 12:59 p.m., the chair announced that the house would stand recessed until 3:15 p.m. today.

**AFTERNOON SESSION**

The house met at 3:15 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, House List No. 40).

(Harper-Brown in the chair)

**HR 2518 - ADOPTED  
(by Hilderbran)**

The following privileged resolution was laid before the house:

**HR 2518**

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular 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 1087** (state-issued certificates of franchise authority to provide cable service and video service) to consider and take action on the following matters:

(1) 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 of the bill, in amended Section 66.004(a), Utilities Code, to read as follows:

(a) A cable service provider or a video service provider that currently has or had previously received a franchise to provide cable service or video service with respect to such municipalities is not eligible to seek a state-issued certificate of franchise authority under this chapter as to those municipalities until the expiration date of the existing franchise agreement, except as provided by Subsections (b), (b-1), (b-2), (b-3), and (c).

Explanation: This change is necessary to clarify that a cable service provider or video service provider that received a franchise to provide cable service or video service to a municipality is not eligible to seek a state-issued certificate of franchise authority before the expiration of the franchise except as provided by Section 66.004, Utilities Code.

(2) House Rule 13, Sections 9(a)(1) and (4), are suspended to permit the committee to change text which is not in disagreement and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 2 of the bill, in added Sections 66.004(b-1), (b-2), and (b-3), Utilities Code, to read as follows:

(b-1) Beginning September 1, 2011, a cable service provider or video service provider in a municipality with a population of less than 215,000 that was not allowed to or did not terminate a municipal franchise under Subsection (b) may elect to terminate not less than all unexpired franchises in municipalities

with a population of less than 215,000 and seek a state-issued certificate of franchise authority for each area served under a terminated municipal franchise by providing written notice to the commission and each affected municipality before January 1, 2012. A municipal franchise is terminated on the date the commission issues a state-issued certificate of franchise authority to the provider for the area served under that terminated franchise.

(b-2) A cable service provider or video service provider in a municipality with a population of at least 215,000 may terminate a municipal franchise in that municipality in the manner described by Subsection (b-1) if:

(1) the cable service provider or video service provider is not the incumbent cable service provider in that municipality; and

(2) the incumbent cable service provider received a state-issued certificate of franchise authority from the commission before September 1, 2011.

(b-3) A municipality with a population of at least 215,000 may enter into an agreement with any cable service provider in the municipality to terminate a municipal cable franchise before the expiration of the franchise. To the extent that the mutually agreed on terms and conditions for early termination of the unexpired municipal cable franchise conflict with a provision of this chapter, the agreed on terms and conditions control.

Explanation: This change is necessary to differentiate between termination of franchises by service providers in municipalities with populations of less than 215,000 and by service providers in municipalities with populations of at least 215,000.

(3) 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 amended Sections 66.004(c) and (f), Utilities Code, to read as follows:

(c) A cable service provider [~~that serves fewer than 40 percent of the total cable customers in a municipal franchise area and~~] that elects under Subsection (b), (b-1), or (b-2) to terminate an existing municipal franchise is responsible for remitting to the affected municipality before the 91st day after the date the municipal franchise is terminated any accrued but unpaid franchise fees due under the terminated franchise. If the cable service provider has credit remaining from prepaid franchise fees, the provider may deduct the amount of the remaining credit from any future fees or taxes it must pay to the municipality, either directly or through the comptroller.

(f) Except as provided in this chapter, nothing in this chapter is intended to abrogate, nullify, or adversely affect in any way the contractual rights, duties, and obligations existing and incurred by a cable service provider or a video service provider before the date a franchise expires or the date a provider terminates a franchise under Subsection (b-1) or (b-2), as applicable, [enactment of this chapter, and owed or owing to any private person, firm, partnership, corporation, or other entity including without limitation those obligations measured by and related to the gross revenue hereafter received by the holder of a state-issued certificate of franchise authority for services provided in the geographic area to which such prior franchise or permit applies. All liens, security interests, royalties, and other contracts, rights, and interests in effect on September 1, 2005,

or the date a franchise is terminated under Subsection (b-1) or (b-2) shall continue in full force and effect, without the necessity for renewal, extension, or continuance, and shall be paid and performed by the holder of a state-issued certificate of franchise authority, and shall apply as though the revenue generated by the holder of a state-issued certificate of franchise authority continued to be generated pursuant to the permit or franchise issued by the prior local franchising authority or municipality within the geographic area to which the prior permit or franchise applies. It shall be a condition to the issuance and continuance of a state-issued certificate of franchise authority that the private contractual rights and obligations herein described continue to be honored, paid, or performed to the same extent as though the cable service provider continued to operate under its prior franchise or permit, for the duration of such state-issued certificate of franchise authority and any renewals or extensions thereof, and that the applicant so agrees. Any person, firm, partnership, corporation, or other entity holding or claiming rights herein reserved may enforce same by an action brought in a court of competent jurisdiction.

Explanation: These changes are necessary to add cross-references to Section 66.004(b-2), Utilities Code.

(4) House Rule 13, Sections 9(a)(1), (2), and (4), are suspended to permit the committee to change text not in disagreement, omit text not in disagreement, and add text on a matter which is not included in either the house or senate version of the bill, in proposed SECTION 4 of the bill, in amended Section 66.006(c) and added Section 66.006(c-2), Utilities Code, to read as follows:

(c) All fees paid to municipalities under this section are paid in accordance with 47 U.S.C. Sections 531 and 541(a)(4)(B) and may be used by the municipality as allowed by federal law; further, these payments are not chargeable as a credit against the franchise fee payments authorized under this chapter.

(c-2) A municipality that receives fees under this section:

(1) shall maintain revenue from the fees in a separate account established for that purpose;

(2) may not commingle revenue from the fees with any other money;

(3) shall maintain a record of each deposit to and disbursement from the separate account, including a record of the payee and purpose of each disbursement; and

(4) may not spend revenue from the fees except directly from the separate account.

Explanation: This change is necessary to clarify that all fees paid to municipalities under Section 66.006, Utilities Code, are not chargeable as a credit against franchise fee payments authorized under Chapter 66, Utilities Code, and that municipalities may not spend revenue from fees received under Section 66.006 except by spending the revenue directly from a separate account, to remove language requiring a detailed accounting of deposits, and to reletter Subsection (c-3) as Subsection (c-2).

(5) 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 4 of the bill, in amended Section 66.006(d), Utilities Code, to read as follows:

(d) The following services shall continue to be provided by the cable provider that was furnishing services pursuant to its municipal cable franchise ~~[until January 1, 2008, or]~~ until the expiration or termination ~~[term]~~ of the franchise ~~[was to expire, whichever is later,]~~ and thereafter as provided in Subdivisions (1) and (2) below:

(1) institutional network capacity, however defined or referred to in the municipal cable franchise but generally referring to a private line data network capacity for use by the municipality for noncommercial purposes, shall continue to be provided at the same capacity as was provided to the municipality prior to the date of expiration or ~~[the]~~ termination, provided that the municipality will compensate the provider for the actual incremental cost of the capacity; and

(2) cable services to community public buildings, such as municipal buildings and public schools, shall continue to be provided to the same extent provided immediately prior to the date of the termination. On ~~[Beginning on January 1, 2008, or]~~ the expiration or termination of the franchise agreement, ~~[whichever is later,]~~ a provider that provides the services may deduct from the franchise fee to be paid to the municipality an amount equal to the actual incremental cost of the services if the municipality requires the services after that date. Such cable service generally refers to the existing cable drop connections to such facilities and the tier of cable service provided pursuant to the franchise at the time of the expiration or termination.

Explanation: This change is necessary to clarify that institutional network capacity and cable services to community public buildings shall continue to be provided in all municipalities as they were provided before the expiration or termination of a franchise.

(6) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 6 of the bill, to read as follows:

SECTION 6. (a) A municipality that received fees described by Section 66.006(c), Utilities Code, before September 1, 2011, shall, on September 1, 2011, transfer any fees that have not been disbursed to a separate account as required by Section 66.006(c-2), Utilities Code, as added by this Act.

(b) The change in law made by this Act in adding Section 66.006(c-2)(3), Utilities Code, applies only to transfers, deposits, and disbursements made on or after the effective date of this Act. A transfer, deposit, or disbursement made before the effective date of this Act is governed by the law in effect on the date the transfer, deposit, or disbursement was made, and the former law is continued in effect for that purpose.

Explanation: These changes are necessary to correct cross-references.

**HR 2518** was adopted by (Record 1631): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Mallory Caraway; Margo; Marquez; 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.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Farias; Gallego; Giddings; Martinez; Turner; Walle.

#### STATEMENT OF VOTE

When Record No. 1631 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez

#### SB 1087 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hilderbran submitted the conference committee report on **SB 1087**.

Representative Hilderbran moved to adopt the conference committee report on **SB 1087**.

The motion to adopt the conference committee report on **SB 1087** prevailed by (Record 1632): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Farias; Walle.

### **SB 1087 - STATEMENT OF LEGISLATIVE INTENT**

Section 66.006 of the Texas Utilities Code requires a holder of a state issued certificate of franchise authority to pay a one percent fee based upon gross revenues to support public, educational, and government ("PEG") access channels. This fee is known as the PEG fee. That section also addresses the purposes for which PEG fee revenue can be spent, and addresses credits against the five percent franchise fee as established in Section 66.005.

It is the intent of this legislation to allow cable service providers and video service providers to credit the one percent PEG fee against the five percent franchise fee, but only for the amounts not spent in accordance with federal law, and for such credit to comply with any applicable federal law, rules, and regulations.

Hilderbran

### **HR 2668 - ADOPTED (by Craddick)**

Representative Craddick moved to suspend all necessary rules to take up and consider at this time **HR 2668**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2668**, Congratulating the Diocese of San Angelo on the 50th anniversary of its founding.

**HR 2668** was adopted.

### **SB 144 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Thompson submitted the conference committee report on **SB 144**.

Representative Thompson moved to adopt the conference committee report on **SB 144**.

The motion to adopt the conference committee report on **SB 144** prevailed by (Record 1633): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook;

Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Christian; Dutton; Farrar.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1633. I intended to vote no.

Parker

### HB 2560 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Sheffield submitted the following conference committee report on **HB 2560**:

Austin, Texas, May 27, 2011

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 2560** 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

Hegar

Huffman

Lucio

Wentworth

On the part of the senate

Sheffield

Lavender

Lozano

Fletcher

Legler

On the part of the house

**HB 2560**, A bill to be entitled An Act relating to transporting a foster child in a vehicle where a handgun is in the possession of a foster parent licensed to carry a concealed handgun.

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

SECTION 1. Section 42.042, Human Resources Code, is amended by adding Subsection (e-2) to read as follows:

(e-2) The department may not prohibit the foster parent of a child who resides in the foster family's home from transporting the child in a vehicle where a handgun is present if the handgun is in the possession and control of the foster parent and the foster parent is licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

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, 2011.

Representative Sheffield moved to adopt the conference committee report on **HB 2560**.

The motion to adopt the conference committee report on **HB 2560** prevailed by (Record 1634): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Crownover; Dutton; Farrar.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1634. I intended to vote no.

Anchia

When Record No. 1634 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

**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).

**HB 1732 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Ritter submitted the following conference committee report on **HB 1732**:

Austin, Texas, May 26, 2011

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 1732** 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  
Whitmire  
Williams  
Seliger

Ritter  
Price  
Keffer  
T. King

On the part of the senate

On the part of the house

**HB 1732**, A bill to be entitled An Act relating to the provision by the Texas Water Development Board of financial assistance for certain projects.

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

SECTION 1. Section 15.975, Water Code, is amended by adding Subsection (d) to read as follows:

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

SECTION 2. Section 15.912, Water Code, is amended to read as follows:

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

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

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

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

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

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

SECTION 3. Section 16.131, Water Code, is amended to read as follows:

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

(1) reservoirs and storm water retention basins for water supply, flood protection, and groundwater recharge;

(2) facilities for the transmission and treatment of water; and

(3) treatment works as defined by Section 17.001 ~~[of this code]~~.

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

SECTION 4. Section 17.003, Water Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c) Water financial assistance bonds that have been authorized but have not been issued are not considered to be state debt payable from the general revenue fund for purposes of Section 49-j, Article III, Texas Constitution, until the legislature makes an appropriation from the general revenue fund to the board to pay the debt service on the bonds.

(d) In requesting approval for the issuance of bonds under this chapter, the executive administrator shall certify to the bond review board whether the bonds are reasonably expected to be paid from:

(1) the general revenues of the state; or

(2) revenue sources other than the general revenues of the state.

(e) The bond review board shall verify whether debt service on bonds to be issued by the board under this chapter is state debt payable from the general revenues of the state, in accordance with the findings made by the board in the resolution authorizing the issuance of the bonds and the certification provided by the executive administrator under Subsection (d).

(f) Bonds issued under this chapter that are designed to be paid from the general revenues of the state shall cease to be considered bonds payable from those revenues if:

(1) the bonds are backed by insurance or another form of guarantee that ensures payment from a source other than the general revenues of the state; or

(2) the board demonstrates to the satisfaction of the bond review board that the bonds no longer require payment from the general revenues of the state and the bond review board so certifies to the Legislative Budget Board.

SECTION 5. This Act takes effect September 1, 2011.

Representative Ritter moved to adopt the conference committee report on **HB 1732**.

The motion to adopt the conference committee report on **HB 1732** prevailed by (Record 1635): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Mallory Caraway; 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; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Taylor, V.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Anderson, C.; Crossover; Torres.

#### STATEMENTS OF VOTE

When Record No. 1635 was taken, I was in the house but away from my desk. I would have voted yes.

Crossover

When Record No. 1635 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

#### **HB 1616 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Geren called up with senate amendments for consideration at this time,

**HB 1616**, A bill to be entitled An Act relating to the reporting or providing of information, including information relating to political contributions, political expenditures, and personal financial information, by public servants, political candidates and committees, and persons required to register under the lobby registration law, and to complaints filed with and the functions of the Texas Ethics Commission.

Representative Geren moved to discharge the conferees and concur in the senate amendments to **HB 1616**.

The motion to discharge the conferees and concur in the senate amendments to **HB 1616** prevailed by (Record 1636): 144 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Mallory Caraway; 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; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Carter; Strama; Taylor, V.

Present, not voting — Mr. Speaker; Harper-Brown(C).

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1636. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1636. I intended to vote no.

Marquez

#### Senate Committee Substitute

**CSHB 1616**, A bill to be entitled An Act relating to the reporting of political contributions, political expenditures, and personal financial information, and to complaints filed with the Texas Ethics Commission.

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

SECTION 1. Section 254.031(a), Election Code, is amended to read as follows:

(a) Except as otherwise provided by this chapter, each report filed under this chapter must include:

(1) the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions;

(2) the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period;

(3) the amount of political expenditures that in the aggregate exceed \$100 [~~\$50~~] and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures;

(4) the amount of each payment made during the reporting period from a political contribution if the payment is not a political expenditure, the full name and address of the person to whom the payment is made, and the date and purpose of the payment;

(5) the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 [~~\$50~~] or less made during the reporting period;

(6) the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period;

(7) the name of each candidate or officeholder who benefits from a direct campaign expenditure made during the reporting period by the person or committee required to file the report, and the office sought or held, excluding a direct campaign expenditure that is made by the principal political committee of a political party on behalf of a slate of two or more nominees of that party; [~~and~~]

(8) as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period;

(9) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution received during the reporting period and the amount of which exceeds \$100;

(10) any proceeds of the sale of an asset purchased with a political contribution received during the reporting period and the amount of which exceeds \$100;

(11) any investment purchased with a political contribution received during the reporting period and the amount of which exceeds \$100;

(12) any other gain from a political contribution received during the reporting period and the amount of which exceeds \$100; and

(13) the full name and address of each person from whom an amount described by Subdivision (9), (10), (11), or (12) is received, the date the amount is received, and the purpose for which the amount is received.

SECTION 2. Subchapter B, Chapter 254, Election Code, is amended by adding Section 254.0405 to read as follows:

Sec. 254.0405. AMENDMENT OF FILED REPORT. (a) A person who files a semiannual report under this chapter may amend the report.

(b) A semiannual report that is amended before the eighth day after the date the original report was filed is considered to have been filed on the date on which the original report was filed.

(c) A semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if:

(1) the amendment is made before any complaint is filed with regard to the subject of the amendment; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION 3. Section 254.041, Election Code, is amended by adding Subsection (d) to read as follows:

(d) It is an exception to the application of Subsection (a)(3) that:

(1) the information was required to be included in a semiannual report; and

(2) the person amended the report within the time prescribed by Section 254.0405(b) or under the circumstances described by Section 254.0405(c).

SECTION 4. Section 571.122, Government Code, is amended by adding Subsection (e) to read as follows:

(e) It is not a valid basis of a complaint to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 5. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1222 to read as follows:

Sec. 571.1222. DISMISSAL OF COMPLAINT CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT. At any stage of a proceeding under this subchapter, the commission shall dismiss a complaint to the extent the complaint alleges that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 6. Section 571.123(b), Government Code, is amended to read as follows:

(b) After a complaint is filed, the commission shall immediately attempt to contact and notify the respondent of the complaint by telephone or electronic mail. Not later than the fifth business day after the date a complaint is filed, the commission shall send written notice to the complainant and the respondent. The written notice to the complainant and the respondent must:

(1) state whether the complaint complies with the form requirements of Section 571.122;

(2) if the respondent is a candidate or officeholder, state the procedure by which the respondent may designate an agent with whom commission staff may discuss the complaint; and

(3) ~~(2)~~ if applicable, include the information required by Section 571.124(e).

SECTION 7. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1231 to read as follows:

Sec. 571.1231. DESIGNATION OF AGENT BY CERTAIN RESPONDENTS. (a) This section applies only to a respondent who is a candidate or officeholder.

(b) A respondent to a complaint filed against the respondent may by writing submitted to the commission designate an agent with whom the commission staff may communicate regarding the complaint.

(c) For purposes of this subchapter, including Section 571.140, communications with the respondent's agent designated under this section are considered communications with the respondent.

SECTION 8. Section 159.003(b), Local Government Code, is amended to read as follows:

(b) The statement must:

(1) be filed with the county clerk of the county in which the officer, justice, or candidate resides; and

(2) comply with Sections 572.022 and 572.023, Government Code, and with any order of the commissioners court of the county requiring additional disclosures.

SECTION 9. Section 254.031(a), Election Code, as amended by this Act, applies only to a report under Chapter 254, Election Code, that is required to be filed on or after the effective date of this Act. A report under Chapter 254, Election Code, that is required to be filed before the effective date of this Act is governed by the law in effect on the date the report is required to be filed, and the former law is continued in effect for that purpose.

SECTION 10. Section 254.041, Election Code, as amended 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 the effective date. 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 11. This Act takes effect September 1, 2011.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1 - Third Reading)**

Amend **HB 1616** (senate committee printing) on third reading as follows:

(1) In SECTION 6 of the bill, amending Section 571.123(b), Government Code (page 3, line 6), strike "and" and substitute "~~and~~".

(2) In SECTION 6 of the bill, amending Section 571.123(b), Government Code (page 3, line 8), between "Section 571.124(e)" and the period, insert the following:

; and

(4) if applicable, state that the respondent has 14 business days to correct the report that is the basis of the complaint, as provided by Section 254.0406, Election Code

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION \_\_\_\_\_. Subchapter B, Chapter 254, Election Code, is amended by adding Section 254.0406 to read as follows:

Sec. 254.0406. CORRECTION OF FILED REPORT. A person who files a report under this chapter may correct the report if:

(1) the correction is made not later than the 14th business day after the person receives written notice of a complaint filed with the commission with regard to the report; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION \_\_\_\_\_. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1223 to read as follows:

Sec. 571.1223. DISMISSAL OF COMPLAINT AFTER CORRECTION OF POLITICAL REPORT. If, not later than the 14th business day after a person receives written notice of a complaint alleging that the person failed to properly file a report required under Chapter 254, Election Code, the person corrects the report that is the basis of the complaint, the commission shall dismiss the complaint, provided that the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION \_\_\_\_\_. Section 571.124, Government Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Except as provided by Subsection (g), the ~~The~~ commission staff shall promptly conduct a preliminary review on receipt of a written complaint that is in compliance with the form requirements of Section 571.122.

(g) The commission may not conduct a preliminary review of a complaint alleging that a person failed to properly file a report required under Chapter 254, Election Code, until the period for correcting the report has expired as provided by Section 254.0406, Election Code.

(4) Renumber the subsequent SECTIONS of the bill accordingly.

**HR 2571 - ADOPTED**  
**(by Cook)**

The following privileged resolution was laid before the house:

**HR 2571**

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular 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 **HB 2499** (continuation and functions of the Department of Information Resources and the transfer of certain department functions to the comptroller of public accounts), 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 by adding the following sections to the bill:

SECTION 25. Subchapter A, Chapter 2157, Government Code, is amended by adding Section 2157.0013 to read as follows:

Sec. 2157.0013. SUNSET PROVISION. (a) The transfer of powers and duties to the comptroller under Section 2157.068 and under **HB 2499**, Acts of the 82nd Legislature, Regular Session, 2011, is subject to Chapter 325 (Texas Sunset Act).

(b) The Sunset Advisory Commission shall evaluate the transfer of powers and duties to the comptroller under Section 2157.068 and under **HB 2499**, Acts of the 82nd Legislature, Regular Session, 2011, and present to the 84th Legislature a report on its evaluation and recommendations in relation to the transfer. The comptroller shall perform all duties in relation to the evaluation that a state agency subject to review under Chapter 325 would perform in relation to a review.

(c) This section expires September 1, 2015.

SECTION 39. (a) The comptroller shall submit, on the dates prescribed by Subsection (c) of this section, a report regarding the transfer described by Section 37 of this Act to the following:

- (1) the Legislative Budget Board;
- (2) the speaker of the house of representatives;
- (3) the lieutenant governor; and
- (4) the chairs of the house and senate committees with primary oversight over the comptroller's purchasing functions.

(b) The report must analyze the efficiency and implementation of the transfer described by Section 37 of this Act.

(c) Each report described by this section is due not later than:

- (1) March 1, 2012;
- (2) September 1, 2012;
- (3) September 1, 2013; and
- (4) September 1, 2014.

Explanation: This change is necessary to require sunset review of, and a report on, the transfer of certain purchasing functions to the comptroller.

**HR 2571** was adopted by (Record 1637): 143 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Carter.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Creighton; Garza; Kleinschmidt.

### **HB 2499 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Cook submitted the following conference committee report on **HB 2499**:

Austin, Texas, May 26, 2011

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 2499** 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	Cook
Hegar	Bonnen
Hinojosa	Branch
Huffman	Geren
Whitmire	Menendez
On the part of the senate	On the part of the house

**HB 2499**, A bill to be entitled An Act relating to the continuation and functions of the Department of Information Resources and the transfer of certain department functions to the comptroller of public accounts.

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

SECTION 1. Section 572.054, Government Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) For purposes of this section, the Department of Information Resources is a regulatory agency.

SECTION 2. Section 2054.005, Government Code, is amended to read as follows:

Sec. 2054.005. SUNSET PROVISION. The Department of Information Resources is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2017 ~~[2014]~~.

SECTION 3. Sections 2054.021(a), (c), (g), and (h), Government Code, are amended to read as follows:

(a) The department is governed by a board composed of seven voting members appointed by the governor with the advice and consent of the senate. One member must be employed by an institution of higher education as defined by Section 61.003, Education Code. Each member must have expertise in at least one of the following areas:

(1) business or financial management;

(2) information technology;

(3) telecommunications; or

(4) any other area necessary for policymaking and oversight of the department.

(c) Three ~~[Two]~~ groups each composed of three ex officio members serve on the board on a rotating basis. The ex officio members serve as nonvoting members of the board. ~~[Only one group serves at a time.]~~ The first group is composed of the commissioner of insurance, the executive commissioner of the Health and Human Services Commission, and the executive director of a small state agency ~~[the Texas Department of Transportation]~~. ~~[Members of the first group serve for two-year terms that begin February 1 of every other odd-numbered year and that expire on February 1 of the next odd-numbered year.]~~ The second group is composed of the executive director of the Texas Department of Transportation, the commissioner of education, and the executive director of a small state agency. The third group is composed of the executive director of the Texas Department of Criminal Justice, ~~[and]~~ the executive director of the Parks and Wildlife Department, and the executive director of a small state agency. Members of a ~~[the second]~~ group serve on the board for two-year terms that begin February 1 of ~~[the]~~ odd-numbered years ~~[in which the terms of members of the first group expire]~~ and ~~[that]~~ expire on February 1 of the next odd-numbered year. Only one group serves at a time. The governor shall appoint the small state agency representative for each group. In this subsection, "small state agency" means a state agency with fewer than 100 employees.

(g) The training program must provide information to the person regarding:

(1) this chapter and the board ~~[the enabling legislation that created the department and its policymaking body]~~ to which the person is appointed to serve;

(2) the programs operated by the department;

(3) the role and functions of the department;

- (4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of the:
  - (A) open meetings law, Chapter 551;
  - (B) open records law, Chapter 552; and
  - (C) administrative procedure law, Chapter 2001;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; ~~and~~
- (9) any applicable ethics policies adopted by the department or the Texas Ethics Commission; and
- (10) contract management training.

(h) A person appointed to the board under Subsection (a) is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

SECTION 4. Section 2054.022(c), Government Code, is amended to read as follows:

- (c) An employee of the department, other than the executive director, ~~is~~
- ~~[(1) may not participate in the department's bidding process, including the proposal development related to a contract and the negotiation of a contract, if:~~
- ~~[(A) the employee receives more than five percent of the employee's income from any likely bidder on the contract; or~~
  - ~~[(B) the employee's spouse is employed by any likely bidder on the contract; and~~
- ~~[(2)]~~ may not:
- (1) ~~[(A)]~~ be a person required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, a substantial interest in the information resources technologies industry; or
  - (2) ~~[(B)]~~ be employed by a state agency as a consultant on information resources technologies.

SECTION 5. Section 2054.0285(b), Government Code, is amended to read as follows:

- (b) The executive director has authority for certain ~~all~~ aspects of information technology for state agencies, including:
- (1) the use of technology to support state goals;
  - (2) functional support to state agencies;
  - (3) ~~technology purchases;~~
  - ~~[(4)]~~ deployment of new technology;
  - (4) ~~[(5)]~~ delivery of technology services; and
  - (5) ~~[(6)]~~ provision of leadership on technology issues.

SECTION 6. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.0331 to read as follows:

Sec. 2054.0331. CUSTOMER ADVISORY COMMITTEE. (a) The board shall appoint a customer advisory committee under Section 2054.033.

(b) The advisory committee is composed of customers who receive services from each of the department's key programs and of members of the public, including at least:

(1) one member representing a state agency with fewer than 100 employees;

(2) one member appointed by the Information Technology Council for Higher Education; and

(3) one public member.

(c) The advisory committee shall report to and advise the board on the status of the department's delivery of critical statewide services.

SECTION 7. Subchapter B, Chapter 2054, Government Code, is amended by adding Sections 2054.0345 and 2054.0346 to read as follows:

Sec. 2054.0345. DETERMINATION OF ADMINISTRATIVE FEES. (a) The department shall adopt a process to determine the amount of the administrative fee the department charges to administer any of its programs, including fees charged for programs under Sections 2054.380 and 2170.057.

(b) The process must require that the amount of a fee directly relate to the amount necessary for the department to recover the cost of its operations, as determined by the department's annual budget process.

(c) The department shall develop clear procedures directing staff for each department program and the department's financial staff to work together to determine the amount of administrative fees. The procedures must require review and approval of all administrative fees by the board, the executive director, and the department's chief financial officer.

Sec. 2054.0346. REPORTING OF ADMINISTRATIVE FEES. (a) The department shall report to the Legislative Budget Board all administrative fees that the department sets under Section 2054.0345 each fiscal year. The report must include:

(1) the underlying analysis and methodology used to determine the fee amounts; and

(2) the cost allocation charged to customers.

(b) The department shall post on the department's website information about each administrative fee the department charges, including a description of how the fee is determined. The department must update this information when a contract amendment or other action results in a major change to the costs incurred or the price paid by the department or a customer of the department.

SECTION 8. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.037 to read as follows:

Sec. 2054.037. 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 for the adoption of department rules; and

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

(b) The department'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 department shall:

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

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

SECTION 9. Subchapter B, Chapter 2054, Government Code, is amended by adding Sections 2054.038, 2054.039, and 2054.040 to read as follows:

Sec. 2054.038. INTERNAL AUDITOR; POWERS AND DUTIES. (a) The board shall:

(1) appoint an internal auditor who reports directly to the board and serves at the will of the board; and

(2) provide staff and other resources to the internal auditor as appropriate.

(b) The internal auditor shall prepare an annual audit plan using risk assessment techniques to rank high-risk functions in the department. The internal auditor shall submit the annual audit plan to the board for consideration and approval. The board may change the plan as necessary or advisable.

(c) The internal auditor may bring before the board an issue outside of the annual audit plan that requires the immediate attention of the board.

(d) The internal auditor may not be assigned any operational or management responsibilities that impair the ability of the internal auditor to make an independent examination of the department's operations. The internal auditor may provide guidance or other advice before an operational or management decision is made but may not make the decision, approve the decision, or otherwise violate this subsection.

(e) The department shall give the internal auditor unrestricted access to the activities and records of the department unless restricted by other law.

Sec. 2054.039. OPEN MEETINGS EXCEPTION FOR INTERNAL AUDITOR. A meeting between the board and the department's internal auditor to discuss issues related to fraud, waste, or abuse is not required to be an open meeting under Chapter 551.

Sec. 2054.040. AUDIT SUBCOMMITTEE. (a) The board shall maintain an audit subcommittee of the board. The subcommittee shall oversee the department's internal auditor and any other audit issues that the board considers appropriate.

(b) The subcommittee shall evaluate whether the internal auditor has sufficient resources to perform the auditor's duties and ensure that sufficient resources are available.

SECTION 10. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.041 to read as follows:

Sec. 2054.041. ADDITIONAL BOARD OVERSIGHT. (a) The board shall adopt a policy describing the board's role in setting a strategic direction for the department. The policy must address the board's role in developing new initiatives for and service offerings by the department, including requiring the board to evaluate and approve new initiatives for, or categories of, services offered by the department under the department's various programs.

(b) The board shall regularly evaluate the extent to which the department fulfills the department's information resources technology mission by providing cost-effective services and meeting customer needs.

(c) The board shall regularly evaluate department operations, including an evaluation of analytical data and information regarding trends in department revenue and expenses, as well as performance information.

SECTION 11. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.0525 to read as follows:

Sec. 2054.0525. ASSISTANCE TO STATE AGENCIES. The department on request shall advise and provide technical assistance to a state agency to determine the agency's information resources technology needs and to solve the agency's information resources technology problems.

SECTION 12. Section 2054.0565(a), Government Code, is amended to read as follows:

(a) The comptroller [~~department~~] may include terms in a procurement contract entered into by the comptroller [~~department~~], including a contract entered into under Section 2157.068, that allow the contract to be used by another state agency, a political subdivision of this state, a governmental entity of another state, or an assistance organization as defined by Section 2175.001.

SECTION 13. Section 2054.057, Government Code, is amended to read as follows:

Sec. 2054.057. TRAINING IN CONTRACT NEGOTIATION. (a) The [~~department, with the cooperation of the~~] comptroller and other appropriate state agencies[~~;~~] shall develop and implement a program to train state agency personnel in effectively negotiating contracts for the purchase of information resources technologies.

(b) The comptroller [~~department~~] shall make the training available to state agency personnel who are directly or indirectly involved in contract negotiations, such as senior or operational management, purchasers, users of the purchased technologies, and personnel with relevant technical, legal, or financial knowledge.

(c) The comptroller [~~department~~] shall include in the training:

(1) information on developing a structured purchasing method that meets an agency's needs;

(2) information drawn from the state's previous procurement experience about what is or is not advantageous for the state;

(3) the perspective of state agencies with oversight responsibilities related to the state's procurement of information resources technologies; and

(4) other information that the comptroller [department] considers to be useful.

(d) The comptroller [department] may use its own staff or contract with private entities or other state agencies to conduct the training.

SECTION 14. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.061 to read as follows:

Sec. 2054.061. USE OF CONSULTANTS AND OUTSIDE STAFF. (a) The department shall develop clear criteria for the appropriate use of consultants and outside staff by the department to temporarily augment the department's existing staff.

(b) The department shall annually analyze:

(1) the department's staffing needs;

(2) the need for and cost-effectiveness of contracting for consultants and outside staff;

(3) whether the department could use department staff to accomplish tasks proposed for the consultants and outside staff; and

(4) whether and what type of training or additional resources are necessary for the department to use the department's own staff to accomplish tasks proposed for the consultants or outside staff.

(c) In conjunction with the budget process, the department shall provide the analysis to the board for approval. The department may not hire or train any consultants or outside staff unless it has been approved during this budget process.

SECTION 15. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.062 to read as follows:

Sec. 2054.062. INFORMATION RESOURCES TECHNOLOGIES CONSOLIDATION. (a) The department shall develop a consistent and clear method of measuring the costs and progress of an information resources technology consolidation initiative, including a consolidation under Subchapter L.

(b) The department shall work with any entity involved in an information resources technology consolidation to develop an agreed on methodology for collecting and validating data to determine a baseline assessment of costs. The department shall use the data both in the department's initial cost projections and in any later cost comparison. The department shall coordinate with the internal auditor for guidance, subject to Section 2054.038(d), on developing a methodology that provides an objective assessment of costs and project status.

(c) Using the methodology agreed on under Subsection (b), the department shall evaluate actual costs and cost savings related to the consolidation. The department shall also evaluate the progress of the department's information resources consolidation projects compared to the initially projected timelines for implementation. The evaluation results must break out the information on both statewide and individual entity levels.

(d) The department shall annually report the evaluation results to:

(1) the board;

(2) the Legislative Budget Board; and

(3) customers involved in the consolidation.

(e) The department shall post on the department's website the report required by this section.

SECTION 16. Sections 2054.1015(b), (c), (d), and (e), Government Code, are amended to read as follows:

(b) The comptroller [department] may require a state agency to provide ~~to the department~~ a planned procurement schedule for commodity items if the comptroller [department] determines that the information in the schedule can be used to provide a benefit to the state. If required by the comptroller [department], a state agency must provide a planned procurement schedule for commodity items to the comptroller and the department before the agency's operating plan may be approved under Section 2054.102.

(c) The comptroller [department] shall use information contained in the schedules to plan future vendor solicitations of commodity items or for any other activity that provides a benefit to the state.

(d) A state agency shall notify the comptroller [department], the Legislative Budget Board, and the state auditor's office if the agency makes a substantive change to a planned procurement schedule for commodity items.

(e) The comptroller [department] shall specify hardware configurations for state commodity items in its instructions for the preparation of planned procurement schedules.

SECTION 17. Section 2054.122, Government Code, is amended to read as follows:

Sec. 2054.122. COORDINATED TECHNOLOGY TRAINING. A state agency each calendar quarter shall coordinate agency training for the use of information resources technologies with training offered or coordinated by the department or comptroller. The agency shall use training offered or coordinated by the department or comptroller if it meets agency requirements and is cost-competitive.

SECTION 18. Section 2054.124, Government Code, is amended to read as follows:

Sec. 2054.124. POWER MANAGEMENT SOFTWARE. (a) After researching the software available, the comptroller [department] shall by competitive bid select power management software to be used, if technically feasible, by state agencies to reduce the amount of energy required to operate state computer networks and networked personal computers.

(b) ~~(e)~~ An institution of higher education shall purchase, lease, or otherwise acquire and use power management software only if the comptroller [department], in consultation with the Information Technology Council for Higher Education, determines that the institution of higher education's use of power management software would provide cost savings to this state. In making a determination under this subsection, the comptroller [department] must perform the analysis described by Section 2054.121(c) in the same manner as the department under that subsection. The analysis must include an assessment of how the use of power management software affects the security of electronic data, including data protected from public disclosure by state or federal law.

SECTION 19. Section 2054.376(b), Government Code, is amended to read as follows:

(b) This subchapter does not apply to:

(1) the Department of Public Safety's use for criminal justice or homeland security purposes of a federal database or network;

(2) a Texas equivalent of a database or network described by Subdivision (1) that is managed by the Department of Public Safety;

(3) the uniform statewide accounting system, as that term is used in Subchapter C, Chapter 2101;

(4) the state treasury cash and treasury management system; ~~or~~

(5) a database or network managed by the comptroller to:

(A) collect and process multiple types of taxes imposed by the state; or

(B) manage or administer fiscal, financial, revenue, and expenditure activities of the state under Chapter 403 and Chapter 404;

(6) a database or network managed by the Department of Agriculture;

(7) a database or network managed by the General Land Office; or

(8) a database or network managed by a state agency in the judicial branch of state government.

SECTION 20. Subchapter L, Chapter 2054, Government Code, is amended by adding Section 2054.392 to read as follows:

Sec. 2054.392. STATEWIDE TECHNOLOGY ACCOUNT. The comptroller shall establish in the state treasury the statewide technology account. The account is a revolving fund account for the administration of this subchapter. The account is the depository for all money received from entities served under this subchapter. Money in the account may be used only for the operation and management of a statewide technology center or for any other purpose specified by the legislature.

SECTION 21. Chapter 2054, Government Code, is amended by adding Subchapters N and O to read as follows:

#### SUBCHAPTER N. MAJOR OUTSOURCED CONTRACTS

Sec. 2054.501. MAJOR OUTSOURCED CONTRACT DEFINED; RULE. The board by rule shall define what constitutes a major outsourced contract with regard to contracts the department executes with entities other than this state or a political subdivision of this state. The definition must include as a major outsourced contract:

(1) outsourced contracts entered into under Subchapter I and Subchapter L of this chapter or Chapter 2170; and

(2) contracts that exceed a monetary threshold, other than those described by Subdivision (1).

Sec. 2054.502. BOARD APPROVAL AND OVERSIGHT OF MAJOR OUTSOURCED CONTRACTS. (a) The department must receive approval from the board before:

(1) entering into a major outsourced contract; or

(2) amending any major outsourced contract, if the amendment has significant statewide impact.

(b) The board shall establish one or more subcommittees to monitor the department's major outsourced contracts.

Sec. 2054.503. MANAGEMENT PLANS FOR MAJOR OUTSOURCED CONTRACTS. (a) The department shall specify procedures for administering, monitoring, and overseeing each major outsourced contract by creating a management plan for each contract. In each management plan, the department shall specify the department's approach to managing and mitigating the risks inherent in each contract.

(b) Department staff who perform contract administration and program duties shall jointly develop the management plans with input from executive management and the board. Each management plan must be approved by the executive director.

(c) Each management plan must establish clear lines of accountability and coordination of contract activities. The plan must provide details about implementing the program that is the subject of the contract as well as procedures for monitoring contractor performance, identifying and mitigating risks related to the contract, and involving and communicating with customers who will be served by any programs implemented through the contract. As appropriate, the plan must define an approach for transitioning from one major outsourced contract to another major outsourced contract.

(d) The department shall revise each management plan:

(1) as necessary to keep current during the contracting process; and

(2) when the department renews, amends, or resolicits a major outsourced contract to ensure the plan remains updated and incorporates any changes resulting from a new contract.

Sec. 2054.504. CUSTOMER INVOLVEMENT IN MAJOR OUTSOURCED CONTRACTS. The department shall establish formal procedures to ensure customer involvement in decision making regarding each of the department's major outsourced contracts, including initial analysis, solicitation development, and contract award and implementation, that affect those customers.

#### SUBCHAPTER O. ADDITIONAL PROVISIONS ON CONTRACTING

Sec. 2054.531. DEFINITION. In this subchapter, "contract management guide" means the guide developed under this subchapter.

Sec. 2054.532. RULES. In addition to the rules adopted under Subchapter N for major outsourced contracts, the board by rule shall establish approval requirements for all other contracts, including a monetary threshold above which board approval is required before the contract may be executed.

Sec. 2054.533. CONFLICT OF INTEREST IN CONTRACTING. (a) A department employee may not:

(1) have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by the department; or

(2) in any manner, including by rebate or gift, directly or indirectly accept or receive from a person to whom a contract may be awarded anything of value or a promise, obligation, or contract for future reward or compensation.

(b) A department employee who violates Subsection (a)(2) is subject to dismissal.

(c) The board shall adopt rules to implement this section.

(d) The department shall train staff in the requirements of this section and Section 572.054 and incorporate the requirements into the contract management guide and the department's internal policies, including employee manuals.

Sec. 2054.534. CONTRACT MANAGEMENT TRAINING POLICY. (a) The department shall develop a policy for training department staff in contract management.

(b) The policy must establish contract management training requirements for all staff involved in contract management, including contract managers, program staff, and executive management.

(c) The policy must specify the department's overall approach to procuring and managing contracts, as well as contract-specific procedures developed in the contract management guide and under Subchapter N.

Sec. 2054.535. CONTRACT MANAGEMENT GUIDE; RULES. (a) The department shall develop and periodically update a contract management guide to provide an overall, consistent approach on procurement and management of major outsourced contracts under Subchapter N and other contracts. In updating the guide, the department shall make changes based on contract experiences and account for changing conditions to guide the updates.

(b) The department shall coordinate with the department's internal auditor, subject to Section 2054.038(d), as needed for assistance and guidance in developing procedures in the contract management guide for monitoring contracts and individual contractors.

(c) The board may adopt rules necessary to develop or update the contract management guide.

(d) The contract management guide must provide information regarding the department's:

(1) general approach to business case analysis, procurement planning, contract solicitation, contract execution, and contract monitoring and oversight;

(2) ethics standards and policies, including those required by Section 2054.533; and

(3) approach to changing a program's internal structure or model for delivering services to customers.

(e) The contract management guide must:

(1) establish clear lines of accountability, staff roles and responsibilities, and decision-making authority for program staff, contract management staff, executive management, customers, and the board;

(2) include the procedures established under Section 2054.504 regarding customer involvement; and

(3) establish the department's process for evaluating and managing risk during each stage of contract procurement, implementation, and management.

(f) The contract management guide must describe the expectations and standards for obtaining and using customer input during all contract management phases.

SECTION 22. Section 2155.003, Government Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:

(e) The comptroller must report to the Texas Ethics Commission a campaign contribution from a vendor that bids on or receives a contract under the comptroller's purchasing authority, including authority under this subtitle.

(f) In this section, "campaign contribution" and "specific-purpose committee" have the meanings assigned by Section 251.001, Election Code.

(g) For purposes of Subsection (e), a campaign contribution to a specific-purpose committee for the purpose of supporting a candidate for comptroller, opposing the candidate's opponent, or assisting the comptroller is considered to be a campaign contribution to the comptroller.

SECTION 23. Sections 2155.502(a), (b), and (c), Government Code, are amended to read as follows:

(a) The comptroller ~~[commission]~~ shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by:

(1) the federal government, including the federal General Services Administration; or

(2) any other governmental entity in any state.

(b) In developing a schedule under Subsection (a) ~~[or (e), the comptroller [commission or department, as appropriate,]~~ shall modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter.

(c) The comptroller ~~[commission]~~ may not list a multiple award contract on a schedule developed under Subsection (a) if the goods or services provided by that contract:

(1) are available from only one vendor; or

(2) are telecommunications services, facilities, or equipment~~[or~~  
~~(3) are commodity items as defined by Section 2157.068(a)].~~

SECTION 24. Section 2155.503, Government Code, is amended to read as follows:

Sec. 2155.503. RULES. (a) The comptroller ~~[and the department]~~ shall adopt rules to implement this subchapter. The rules must:

(1) establish standard terms for contracts listed on a schedule; and

(2) maintain consistency with existing purchasing standards.

(b) The comptroller ~~[and the department]~~ shall consult with the attorney general in developing rules under this section.

SECTION 25. Subchapter A, Chapter 2157, Government Code, is amended by adding Section 2157.0013 to read as follows:

Sec. 2157.0013. SUNSET PROVISION. (a) The transfer of powers and duties to the comptroller under Section 2157.068 and under **HB 2499**, Acts of the 82nd Legislature, Regular Session, 2011, is subject to Chapter 325 (Texas Sunset Act).

(b) The Sunset Advisory Commission shall evaluate the transfer of powers and duties to the comptroller under Section 2157.068 and under **HB 2499**, Acts of the 82nd Legislature, Regular Session, 2011, and present to the 84th

Legislature a report on its evaluation and recommendations in relation to the transfer. The comptroller shall perform all duties in relation to the evaluation that a state agency subject to review under Chapter 325 would perform in relation to a review.

(c) This section expires September 1, 2015.

SECTION 26. Section 2157.004, Government Code, is amended to read as follows:

Sec. 2157.004. TRANSFERS AND LOANS. A state agency that acquires a telecommunications device, system, or service or an automated information system by interagency transfer, contract, or loan, or by public loan, shall comply with the requirements that apply to that acquisition under [of] Chapter 2054 and this chapter.

SECTION 27. Section 2157.068, Government Code, is amended to read as follows:

Sec. 2157.068. PURCHASE OF INFORMATION TECHNOLOGY COMMODITY ITEMS. (a) In this section, "commodity items" means commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public and for which the comptroller [department] determines that a reasonable demand exists in two or more state agencies. The term includes seat management, through which a state agency transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop in the state agency, including all necessary hardware, software, and support services.

(b) The comptroller [department] shall negotiate with vendors to attempt to obtain a favorable price for all of state government on licenses for commodity items, based on the aggregate volume of purchases expected to be made by the state. The terms and conditions of a license agreement between a vendor and the comptroller [department] under this section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors.

(c) In contracting for commodity items under this section, the comptroller [department] shall make good faith efforts to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses and persons with disabilities' products and services available under Chapter 122, Human Resources Code.

(d) The comptroller [department] may charge a reasonable administrative fee to a state agency, political subdivision of this state, or governmental entity of another state that purchases commodity items through the comptroller [department] in an amount that is sufficient to recover costs associated with the administration of this section. The comptroller shall develop a clear procedure for calculating the fee under this subsection, including procedures for review and approval of the fee.

(e) The comptroller [department] shall compile and maintain a list of commodity items available for purchase through the comptroller [department] that have a lower price than the prices for commodity items otherwise available to

state agencies under this chapter. The comptroller [department] shall make the list available on the comptroller's website [world wide web or on a suitable successor to the world wide web if the technological developments involving the Internet make it advisable to do so].

(f) The comptroller [department] may adopt rules regulating a purchase by a state agency of a commodity item under this section, including a requirement that, notwithstanding other provisions of this chapter, the agency must make the purchase in accordance with a contract developed by the comptroller [department] unless the agency obtains:

(1) an exemption from the comptroller [department]; or

(2) express prior approval from the Legislative Budget Board for the expenditure necessary for the purchase.

(g) The Legislative Budget Board's approval of a biennial operating plan under Section 2054.102 is not an express prior approval for purposes of Subsection (f)(2). A state agency must request an exemption from the comptroller [department] under Subsection (f)(1) before seeking prior approval from the Legislative Budget Board under Subsection (f)(2).

(h) The comptroller [department] shall, in cooperation with state agencies, establish guidelines for the classification of commodity items under this section. The comptroller [department] may determine when a statewide vendor solicitation for a commodity item will reduce purchase prices for a state agency.

(i) Unless the agency has express statutory authority to employ a best value purchasing method other than a purchasing method designated by the comptroller [commission] under Section 2157.006(a)(2), a state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:

(1) the agency has obtained an exemption from the comptroller [department] or approval from the Legislative Budget Board under Subsection (f); or

(2) the agency is otherwise exempt from this section.

SECTION 28. Subchapter B, Chapter 2157, Government Code, is amended by adding Section 2157.0685 to read as follows:

Sec. 2157.0685. REPORTING OF ADMINISTRATIVE FEES FOR COMMODITY ITEMS. (a) The comptroller shall report to the Legislative Budget Board any administrative fee the comptroller sets under Section 2157.068 for each fiscal year. The report must include the underlying analysis and methodology used to determine the fee amounts.

(b) The comptroller shall post on the comptroller's website information about the fee, including a description of how the fee is determined. The comptroller must update this information when a contract amendment or other action results in a major change to the costs incurred or the price paid by the comptroller or a customer of the comptroller.

SECTION 29. Subchapter B, Chapter 2157, Government Code, is amended by adding Section 2157.069 to read as follows:

Sec. 2157.069. CLEARING FUND ACCOUNT. The comptroller shall establish in the state treasury the clearing fund account. The account is a revolving fund account for the administration of Section 2157.068. The account

is the depository for all money received from entities served under that section. Money in the account may be used only to administer that section or for any other purpose specified by the legislature.

SECTION 30. Section 2157.121, Government Code, is amended to read as follows:

Sec. 2157.121. ACQUISITION THROUGH COMPETITIVE SEALED PROPOSALS. (a) The comptroller [~~commission~~] or other state agency may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals if the comptroller [~~commission~~] determines that competitive sealed bidding and informal competitive bidding are not practical or are disadvantageous to the state.

(b) A state agency, other than the department under Subsection (c), shall send its proposal specifications and criteria to the comptroller [~~commission~~] for approval or request the comptroller [~~commission~~] to develop the proposal specifications and criteria.

(c) The department may acquire a telecommunications device, system, or service [~~or an automated information system~~] by using competitive sealed proposals without regard to whether the comptroller [~~commission~~] makes the determination required under Subsection (a) for other state agencies. This subsection applies only to an acquisition under Subchapter H, Chapter 2054, or under Chapter 2170.

SECTION 31. Section 2157.181(a), Government Code, is amended to read as follows:

(a) The comptroller [~~commission, with the concurrence of the department,~~] may negotiate with vendors preapproved terms and conditions to be included in contracts relating to the purchase or lease of [~~a telecommunication device, system, or service or~~] an automated information system awarded to a vendor by a state agency.

SECTION 32. Section 2157.182, Government Code, is amended to read as follows:

Sec. 2157.182. VALIDITY OF PREAPPROVED TERMS AND CONDITIONS; RENEGOTIATION. (a) Preapproved terms and conditions to which a vendor [~~, the commission,~~] and the comptroller [~~department~~] agree are valid for two years after the date of the agreement and must provide that the terms and conditions are to be renegotiated before the end of the two years.

(b) The comptroller [~~commission and the department jointly~~] shall establish procedures to ensure that terms and conditions are renegotiated before they expire in a contract between the vendor and a state agency.

SECTION 33. Section 2157.184, Government Code, is amended to read as follows:

Sec. 2157.184. NOTIFICATION OF STATE AGENCIES AND VENDORS. The comptroller [~~commission and the department jointly~~] shall establish procedures to notify state agencies and potential vendors of the provisions of this subchapter regarding preapproved terms and conditions.

SECTION 34. Sections 2054.024(c), 2059.060, 2155.501(1), 2155.502(e), 2157.0611, and 2157.181(b), Government Code, are repealed.

SECTION 35. (a) Not later than September 1, 2011, the governor shall appoint the initial members of the governing board of the Department of Information Resources under Section 2054.021, Government Code, as amended by this Act. The governor shall appoint:

- (1) two members whose terms expire February 1, 2013;
- (2) two members whose terms expire February 1, 2015; and
- (3) three members whose terms expire February 1, 2017.

(b) The terms of the current members of the board expire September 1, 2011.

SECTION 36. (a) Not later than September 1, 2011, the first group of ex officio members shall begin serving or be appointed under Section 2054.021(c), Government Code, as amended by this Act.

(b) The governor shall appoint to the first group an ex officio member from a state agency with fewer than 100 employees under Section 2054.021(c), Government Code, as amended by this Act. When that member is appointed, the term of the executive director of the Texas Department of Transportation expires.

(c) The commissioner of insurance and the executive commissioner of the Health and Human Services Commission shall continue to serve in the first group under Section 2054.021(c), Government Code, as amended by this Act, until February 1, 2013.

SECTION 37. (a) In this section, "department" means the Department of Information Resources.

(b) On the effective date of this Act, the powers and duties of the department under Section 2157.068, Government Code, or other law relating to information and communications technology cooperative contracts are transferred to the comptroller.

(c) The department shall work in cooperation with and at the direction of the comptroller to facilitate the transfer described by this section.

(d) A rule, form, policy, procedure, or decision of the department that is related to a power or duty transferred under Subsection (b) of this section continues in effect as a rule, form, policy, procedure, or decision of the comptroller until superseded by an act of the comptroller.

(e) A court case, administrative proceeding, contract negotiation, or other proceeding involving the department that is related to a power or duty transferred under Subsection (b) of this section is transferred without change in status to the comptroller, and the comptroller assumes, without a change in status, the position of the department in a negotiation or proceeding relating to a power or duty transferred under Subsection (b) of this section to which the department is a party.

(f) All department employees who primarily perform duties related to a power or duty transferred under Subsection (b) of this section, including employees who provide administrative support for those powers or duties, are transferred to the office of the comptroller. A management employee of the department who is transferred to the office of the comptroller under this section does not automatically continue to hold the person's management position. To hold the management position on other than an interim basis, the person must apply for the position with the comptroller.

(g) All personal property, including records, in the custody of the department related to a power or duty transferred under Subsection (b) of this section is transferred to and becomes the property of the comptroller.

(h) All contracts, memoranda of understanding, leases, and rights of the department related to a power or duty transferred under Subsection (b) of this section are transferred to the comptroller.

(i) All money appropriated by the legislature to the department related to a power or duty transferred under Subsection (b) of this section, including money for providing administrative support, is transferred to the comptroller.

SECTION 38. A contract transferred under Section 37 of this Act may not be canceled by the comptroller except as provided by the terms of the contract.

SECTION 39. (a) The comptroller shall submit, on the dates prescribed by Subsection (c) of this section, a report regarding the transfer described by Section 37 of this Act to the following:

- (1) the Legislative Budget Board;
- (2) the speaker of the house of representatives;
- (3) the lieutenant governor; and
- (4) the chairs of the house and senate committees with primary oversight over the comptroller's purchasing functions.

(b) The report must analyze the efficiency and implementation of the transfer described by Section 37 of this Act.

(c) Each report described by this section is due not later than:

- (1) March 1, 2012;
- (2) September 1, 2012;
- (3) September 1, 2013; and
- (4) September 1, 2014.

SECTION 40. Sections 2054.502 and 2054.533, Government Code, as added by this Act, apply only to a contract for which a solicitation of bids or proposals or similar expressions of interest is published on or after September 1, 2011. A contract for which a solicitation of bids or proposals or similar expressions of interest is published before September 1, 2011, is governed by the law in effect on the date the state agency first publishes the solicitation of bids or proposals or similar expressions of interest, and the former law is continued in effect for that purpose.

SECTION 41. Section 2155.003, Government Code, as amended by this Act, applies only to a campaign contribution made on or after the effective date of this Act. A campaign contribution made before the effective date of this Act is governed by the law in effect when the contribution was made, and the former law is continued in effect for that purpose.

SECTION 42. This Act takes effect September 1, 2011.

Representative Cook moved to adopt the conference committee report on **HB 2499**.

The motion to adopt the conference committee report on **HB 2499** prevailed by (Record 1638): 144 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Carter.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Anderson, R.; Kolkhorst.

#### STATEMENT OF VOTE

When Record No. 1638 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

#### HB 2194 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 2194**, A bill to be entitled An Act relating to the conduct and administration of elections and of state conventions of political parties.

Representative L. Taylor moved to discharge the conferees and concur in the senate amendments to **HB 2194**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2194** prevailed by (Record 1639): 144 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen;

Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Mallory Caraway; 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.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Castro.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Callegari; Torres.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1639. I intended to vote no.

Strama

### Senate Committee Substitute

**CSHB 2194**, A bill to be entitled An Act relating to certain election practices and procedures; providing a penalty.

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

SECTION 1. Section 12.006, Election Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The registrar may appoint one or more deputy registrars to assist in the registration of voters, subject to Subsection (e).

(e) To be eligible for appointment as a regular deputy registrar under this section, a person must meet the requirements to be a qualified voter under Section 11.002 except that the person is not required to be a registered voter.

SECTION 2. Subchapter A, Chapter 13, Election Code, is amended by adding Section 13.008 to read as follows:

Sec. 13.008. PERFORMANCE-BASED COMPENSATION FOR REGISTERING VOTERS PROHIBITED. (a) A person commits an offense if the person:

(1) compensates another person based on the number of voter registrations that the other person successfully facilitates;

(2) presents another person with a quota of voter registrations to facilitate as a condition of payment or employment;

(3) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voter registrations that the other person facilitates; or

(4) accepts compensation for an activity described by Subdivision (1), (2), or (3).

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

(c) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

SECTION 3. Section 13.031(d), Election Code, is amended to read as follows:

(d) To be eligible for appointment as a volunteer deputy registrar, a person must:

(1) be 18 years of age or older; ~~and~~

(2) not have been finally convicted of a felony or, if so convicted, must

have:

(A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote; and

(3) meet the requirements to be a qualified voter under Section 11.002 except that the person is not required to be a registered voter.

SECTION 4. Section 13.036(a), Election Code, is amended to read as follows:

(a) An appointment as a volunteer deputy registrar is terminated on:

(1) the expiration of the volunteer deputy's term of appointment; or

(2) the final conviction of the volunteer deputy for an offense prescribed by Section 13.008 or 13.043.

SECTION 5. Section 32.051(a) and (b), Election Code, are amended to read as follows:

(a) Except as provided by Subsection (b) [~~or (c)~~], to be eligible to serve as a judge of an election precinct, a person must:

(1) be a qualified voter of the precinct; and

(2) for a regular county election precinct

for which an appointment is made by the commissioners court, satisfy any additional eligibility requirements prescribed by written order of the commissioners court.

(b) If the authority making an [~~emergency~~] appointment of a presiding judge or alternate presiding judge cannot find an eligible qualified voter of the precinct who is willing to accept the appointment, the eligibility requirement for a clerk prescribed by Subsection (c) applies.

SECTION 6. Section 32.051(e), Election Code, is repealed.

SECTION 7. Effective January 1, 2012, Section 15.022(a), Election Code, is amended to read as follows:

(a) The registrar shall make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the suspense list:

(1) after receipt of a notice of a change in registration information under Section 15.021;

(2) after receipt of a voter's reply to a notice of investigation given under Section 16.033;

(3) after receipt of [~~a registration omissions list and~~] any affidavits executed under Section 63.006 [~~63.007~~], following an election;

(4) after receipt of a voter's statement of residence executed under Section 63.0011;

(5) before the effective date of the abolishment of a county election precinct or a change in its boundary;

(6) after receipt of United States Postal Service information indicating an address reclassification;

(7) after receipt of a voter's response under Section 15.053; or

(8) after receipt of a registration application or change of address under Chapter 20.

SECTION 8. Section 43.007, Election Code, is amended by amending Subsections (a) and (i) and adding Subsections (k) and (l) to read as follows:

(a) The secretary of state shall implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

(1) each general election for state and county officers;

(2) each [~~countywide~~] election held on the uniform election date in May;

(3) each election on a proposed constitutional amendment; and

(4) each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (1), (2), or (3).

(i) The secretary of state may only select to participate in the program six [~~three~~] counties with a population of 100,000 or more and four [~~two~~] counties with a population of less than 100,000.

(k) Each county that previously participated in a program under this section is authorized to continue participation in the program for future elections described by Subsection (a) if:

(1) the commissioners court of the county approves participation in the program; and

(2) the secretary of state determines the county's participation in the program was successful.

(l) Subsections (b), (c), and (d) do not apply to a county participating in the program under Subsection (k).

SECTION 9. Effective January 1, 2012, Section 63.011, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) A person to whom Section 63.009 [~~63.008(b) or 63.009(a)~~] applies may cast a provisional ballot if the person executes an affidavit stating that the person:

(1) is a registered voter in the precinct in which the person seeks to vote; and

(2) is eligible to vote in the election.

(b) A form for an affidavit required by this section must [~~shall~~] be printed on an envelope in which the provisional ballot voted by the person may be placed and must include:

(1) a space for entering the identification number of the provisional ballot voted by the person; and

(2) a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101.

(b-1) The affidavit form may include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13. The secretary of state shall prescribe the form of the affidavit under this section.

SECTION 10. Effective January 1, 2012, Section 66.0241, Election Code, is amended to read as follows:

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:

(1) the precinct list of registered voters;

(2) the registration correction list;

(3) ~~the registration omissions list;~~

~~[(4)]~~ any statements of residence executed under Section 63.0011; and

(4) ~~[(5)]~~ any affidavits executed under Section 63.006 ~~[63.007]~~ or 63.011.

SECTION 11. Effective January 1, 2012, Section 85.031(b), Election Code, is amended to read as follows:

(b) On accepting a voter, the clerk shall indicate beside the voter's name on the list of registered voters ~~[or registration omissions list, as applicable,]~~ that the voter is accepted to vote by personal appearance unless the form of the either list makes it impracticable to do so, and the clerk shall enter the voter's name on the poll list.

SECTION 12. Subchapter E, Chapter 127, Election Code, is amended by adding Section 127.1311 to read as follows:

Sec. 127.1311. ANNOUNCING UNOFFICIAL RESULTS. (a) Except as provided by Subsection (b), unofficial election results shall be released as soon as they are available after the polls close.

(b) The presiding judge of the central counting station, in cooperation with the county clerk, may withhold the release of unofficial election results until the last voter has voted.

SECTION 13. Section 174.092(a), Election Code, is amended to read as follows:

(a) The biennial state convention shall be convened on any day in June or July.

SECTION 14. Section 573.061, Government Code, is amended to read as follows:

Sec. 573.061. GENERAL EXCEPTIONS. Section 573.041 does not apply to:

(1) an appointment to the office of a notary public or to the confirmation of that appointment;

(2) an appointment of a page, secretary, attendant, or other employee by the legislature for attendance on any member of the legislature who, because of physical infirmities, is required to have a personal attendant;

(3) a confirmation of the appointment of an appointee appointed to a first term on a date when no individual related to the appointee within a degree described by Section 573.002 was a member of or a candidate for the legislature, or confirmation on reappointment of the appointee to any subsequent consecutive term;

(4) an appointment or employment of a bus driver by a school district if:

(A) the district is located wholly in a county with a population of less than 35,000; or

(B) the district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000;

(5) an appointment or employment of a personal attendant by an officer of the state or a political subdivision of the state for attendance on the officer who, because of physical infirmities, is required to have a personal attendant;

(6) an appointment or employment of a substitute teacher by a school district; ~~or~~

(7) an appointment or employment of a person by a municipality that has a population of less than 200; or

(8) an appointment of an election clerk under Section 32.031, Election Code, who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election.

SECTION 15. Effective January 1, 2012, Sections 63.005, 63.007, and 63.008, Election Code, are repealed.

SECTION 16. The appointment of a person serving as a regular deputy registrar or volunteer deputy registrar who does not meet the eligibility requirements of Section 12.006 or 13.031, Election Code, as amended by this Act, expires on the effective date of this Act. The secretary of state shall prescribe procedures necessary to implement this section.

SECTION 17. Except as otherwise provided by this Act, this Act takes effect September 1, 2011.

(Speaker in the chair)

**HR 2572 - ADOPTED**  
**(by W. Smith)**

The following privileged resolution was laid before the house:

**HR 2572**

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular 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 **HB 2694** (continuation and functions of the Texas Commission on Environmental Quality), 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 proposed Section 6.03 of the bill, in amended Section 5.701(n)(1), Water Code, to read as follows:

(1) Each provider of potable water or sewer utility service shall collect a regulatory assessment from each retail customer as follows:

(A) A public utility as defined in Section 13.002 ~~[of this code]~~ shall collect from each retail customer a regulatory assessment equal to one percent of the charge for retail water or sewer service.

(B) A water supply or sewer service corporation as defined in Section 13.002 ~~[of this code]~~ shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service.

(C) A district as defined in Section 49.001 ~~[of this code]~~ that provides potable water or sewer utility service to retail customers shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service.

Explanation: This change is necessary to remove a change to the regulatory assessment collected by certain water supply or sewer service corporations.

**HR 2572** was adopted by (Record 1640): 145 Yeas, 2 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; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Marquez.

Present, not voting — Mr. Speaker(C).

Absent — Callegari; Miller, S.

## **HB 2694 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative W. Smith submitted the following conference committee report on **HB 2694**:

Austin, Texas, May 24, 2011

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 2694** 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.

Huffman  
Fraser  
Hegar  
Hinojosa  
Nichols

W. Smith  
Bonnen  
Geren

On the part of the senate

On the part of the house

**HB 2694**, A bill to be entitled An Act relating to the continuation and functions of the Texas Commission on Environmental Quality and abolishing the On-site Wastewater Treatment Research Council.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. The heading to Chapter 5, Water Code, is amended to read as follows:

CHAPTER 5. TEXAS ~~[NATURAL RESOURCE CONSERVATION]~~  
COMMISSION ON ENVIRONMENTAL QUALITY

SECTION 1.02. Section 5.014, Water Code, is amended to read as follows:

Sec. 5.014. SUNSET PROVISION. The Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality 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, 2023 ~~[2011]~~.

SECTION 1.03. Subchapter C, Chapter 5, Water Code, is amended by adding Section 5.061 to read as follows:

Sec. 5.061. PROHIBITION ON ACCEPTING CAMPAIGN CONTRIBUTIONS. A member of the commission may not accept a contribution to a campaign for election to an elected office. If a member of the commission accepts a campaign contribution, the person is considered to have resigned from the office and the office immediately becomes vacant. The vacancy shall be filled in the manner provided by law.

SECTION 1.04. Subchapter D, Chapter 5, Water Code, is amended by adding Section 5.1031 to read as follows:

Sec. 5.1031. NEGOTIATED RULEMAKING AND 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:

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

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

SECTION 1.05. Section 5.2291(b), Water Code, is amended to read as follows:

(b) Except as provided by Section 5.2292, the [The] procurement of a contract for scientific and technical environmental services shall be conducted under the procedures for professional services selection provided in Subchapter A, Chapter 2254, Government Code.

SECTION 1.06. Subchapter F, Chapter 5, Water Code, is amended by adding Section 5.2292 to read as follows:

Sec. 5.2292. CONTRACTS FOR SERVICES UNDER PETROLEUM STORAGE TANK STATE-LEAD PROGRAM. (a) The executive director may directly award a contract for scientific and technical environmental services to a person if:

(1) the contract is for the performance of services related to the remediation of a site that has been placed in the state-lead program under Section 26.3573(r-1);

(2) the person has registered to perform corrective action under Section 26.364;

(3) the person is eligible to receive a contract award from the state;

(4) the person was performing related work at the site on or before July 1, 2011; and

(5) the contract includes all contract provisions required for state contracts.

(b) Notwithstanding Section 2254.004, Government Code, the executive director may directly award a contract for engineering services to a person if:

(1) the contract is for the performance of services related to the remediation of a site that has been placed in the state-lead program under Section 26.3573(r-1);

(2) the person is licensed under Chapter 1001, Occupations Code;

(3) the person has registered to perform corrective action under Section 26.364;

(4) the person is eligible to receive a contract award from the state;

(5) the person was performing related work at the site on or before July 1, 2011; and

(6) the contract includes all contract provisions required for state contracts.

(c) Nothing in Subsection (a) or (b) requires the executive director to make an award at a site or prevents the executive director from negotiating additional contract terms, including qualifications.

SECTION 1.07. Section 12.052, Water Code, is amended by amending Subsection (a) and adding Subsections (b-1), (e-1), (e-2), and (e-3) to read as follows:

(a) The commission shall make and enforce rules and orders and shall perform all other acts necessary to provide for the safe construction, maintenance, repair, and removal of dams located in this state. In performing the commission's duties under this subsection, the commission shall identify and focus on the most hazardous dams in the state.

(b-1) The commission may enter into an agreement with an owner of a dam who is required to reevaluate the adequacy of an existing dam or spillway. The agreement may include timelines to achieve compliance with the commission's design criteria and may authorize deferral of compliance with the criteria, as appropriate.

(e-1) The commission shall exempt an owner of a dam located on private property from meeting requirements related to dam safety if the dam:

- (1) at maximum capacity impounds less than 500 acre-feet;
- (2) has a hazard classification of low or significant;
- (3) is located in a county with a population of less than 215,000; and
- (4) is not located inside the corporate limits of a municipality.

(e-2) Notwithstanding Subsection (e-1), an owner of a dam shall comply with operation and maintenance requirements established by commission rule.

(e-3) This subsection and Subsections (e-1) and (e-2) expire August 31, 2015.

## ARTICLE 2. TRANSFER OF CERTAIN DUTIES TO THE RAILROAD COMMISSION

SECTION 2.01. Section 91.011, Natural Resources Code, is amended to read as follows:

Sec. 91.011. CASING. (a) Before drilling into the oil or gas bearing rock, the owner or operator of a well being drilled for oil or gas shall encase the well with good and sufficient wrought iron or steel casing or with any other material that meets standards adopted by the commission, particularly where wells could be subjected to corrosive elements or high pressures and temperatures, in a manner and to a depth that will exclude surface or fresh water from the lower part of the well from penetrating the oil or gas bearing rock, and if the well is drilled through the first into the lower oil or gas bearing rock, the well shall be cased in a manner and to a depth that will exclude fresh water above the last oil or gas bearing rock penetrated.

(b) The commission shall adopt rules regarding the depth of well casings necessary to meet the requirements of this section.

SECTION 2.02. Subchapter B, Chapter 91, Natural Resources Code, is amended by adding Section 91.0115 to read as follows:

Sec. 91.0115. CASING; LETTER OF DETERMINATION. (a) The commission shall issue, on request from an applicant for a permit for a well to be drilled into oil or gas bearing rock, a letter of determination stating the total depth of surface casing required for the well by Section 91.011.

(b) The commission may charge a fee in an amount to be determined by the commission for a letter of determination.

(c) The commission shall charge a fee not to exceed \$75, in addition to the fee required by Subsection (b), for processing a request to expedite a letter of determination. Money collected under this subsection may be used to study and evaluate electronic access to geologic data and surface casing depths under Section 91.020.

SECTION 2.03. Subchapter B, Chapter 91, Natural Resources Code, is amended by adding Section 91.020 to read as follows:

Sec. 91.020. ELECTRONIC GEOLOGIC DATA. The commission shall work cooperatively with other appropriate state agencies to study and evaluate electronic access to geologic data and surface casing depths necessary to protect usable groundwater in this state.

SECTION 2.04. Subchapter D, Chapter 91, Natural Resources Code, is amended by adding Section 91.1015 to read as follows:

Sec. 91.1015. GROUNDWATER PROTECTION REQUIREMENTS. The commission shall adopt rules to establish groundwater protection requirements for operations that are within the jurisdiction of the commission, including requirements relating to the depth of surface casing for wells.

SECTION 2.05. Section 27.033, Water Code, is amended to read as follows:

Sec. 27.033. LETTER OF DETERMINATION ~~[FROM EXECUTIVE DIRECTOR]~~. A person making application to the railroad commission for a permit under this chapter shall submit with the application a letter of determination from the railroad commission ~~[from the executive director]~~ stating that drilling and using the disposal well and injecting oil and gas waste into the subsurface stratum will not endanger the freshwater strata in that area and that the formation or stratum to be used for the disposal is not freshwater sand.

SECTION 2.06. Section 27.046, Water Code, is amended to read as follows:

Sec. 27.046. LETTER OF DETERMINATION ~~[FROM EXECUTIVE DIRECTOR]~~. (a) The railroad commission may not issue a permit under rules adopted under this subchapter until the railroad commission issues to the applicant for the permit ~~[provides to the railroad commission]~~ a letter of determination ~~[from the executive director]~~ stating that drilling and operating the anthropogenic carbon dioxide injection well for geologic storage or operating the geologic storage facility will not injure any freshwater strata in that area and that the formation or stratum to be used for the geologic storage facility is not freshwater sand.

(b) To make the determination required by Subsection (a), the railroad commission ~~[executive director]~~ shall review:

- (1) the area of review and corrective action plans;

(2) any subsurface monitoring plans required during injection or post injection;

(3) any postinjection site care plans; and

(4) any other elements of the application reasonably required in order for the railroad commission [~~executive director~~] to make the determination required by Subsection (a).

(c) The railroad commission shall adopt rules to implement and administer this section.

SECTION 2.07. Section 5.701(r), Water Code, is repealed.

SECTION 2.08. (a) The Railroad Commission of Texas shall adopt rules to implement the changes in law made by this article not later than March 1, 2012.

(b) A rule, form, policy, or procedure of the Texas Commission on Environmental Quality related to the changes in law made by this article continues in effect as a rule, form, policy, or procedure of the Railroad Commission of Texas and remains in effect until amended or replaced by that agency.

### ARTICLE 3. PUBLIC INTEREST

SECTION 3.01. Subchapter F, Chapter 5, Water Code, is amended by adding Section 5.239 to read as follows:

Sec. 5.239. PUBLIC EDUCATION AND ASSISTANCE. (a) The executive director shall ensure that the agency is responsive to environmental and citizens' concerns, including environmental quality and consumer protection.

(b) The executive director shall develop and implement a program to:

(1) provide a centralized point for the public to access information about the commission and to learn about matters regulated by the commission;

(2) identify and assess the concerns of the public in regard to matters regulated by the commission; and

(3) respond to the concerns identified by the program.

SECTION 3.02. Section 5.271, Water Code, is amended to read as follows:

Sec. 5.271. CREATION AND GENERAL RESPONSIBILITY OF THE OFFICE OF PUBLIC INTEREST COUNSEL. The office of public interest counsel is created to ensure that the commission promotes the public's interest [and is responsive to environmental and citizens' concerns including environmental quality and consumer protection]. The primary duty of the office is to represent the public interest as a party to matters before the commission.

SECTION 3.03. Subchapter G, Chapter 5, Water Code, is amended by adding Section 5.2725 to read as follows:

Sec. 5.2725. ANNUAL REPORT; PERFORMANCE MEASURES. (a) The office of public interest counsel shall report to the commission each year in a public meeting held on a date determined by the commission to be timely for the commission to include the reported information in the commission's reports under Sections 5.178(a) and (b) and in the commission's biennial legislative appropriations requests as appropriate:

(1) an evaluation of the office's performance in representing the public interest in the preceding year;

(2) an assessment of the budget needs of the office, including the need to contract for outside expertise; and

(3) any legislative or regulatory changes recommended under Section 5.273.

(b) The commission and the office of public interest counsel shall work cooperatively to identify performance measures for the office.

SECTION 3.04. Subchapter G, Chapter 5, Water Code, is amended by adding Section 5.276 to read as follows:

Sec. 5.276. FACTORS FOR PUBLIC INTEREST REPRESENTATION.

(a) The commission by rule, after consideration of recommendations from the office of public interest counsel, shall establish factors the public interest counsel must consider before the public interest counsel decides to represent the public interest as a party to a commission proceeding.

(b) Rules adopted under this section must include:

(1) factors to determine the nature and extent of the public interest; and

(2) factors to consider in prioritizing the workload of the office of public interest counsel.

#### ARTICLE 4. COMPLIANCE AND ENFORCEMENT

SECTION 4.01. Section 5.751, Water Code, is amended to read as follows:

Sec. 5.751. APPLICABILITY. This subchapter applies to programs under the jurisdiction of the commission under Chapters 26, ~~and~~ 27, and 32 of this code and Chapters 361, 375, 382, and 401, Health and Safety Code. It does not apply to occupational licensing programs under the jurisdiction of the commission.

SECTION 4.02. Section 5.752(1), Water Code, is amended to read as follows:

(1) "Applicable legal requirement" means an environmental law, regulation, permit, order, consent~~[-]~~ decree, or other requirement.

SECTION 4.03. The heading to Section 5.753, Water Code, is amended to read as follows:

Sec. 5.753. STANDARDS ~~[STANDARD]~~ FOR EVALUATING AND USING COMPLIANCE HISTORY.

SECTION 4.04. Section 5.753, Water Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (d-1) to read as follows:

(a) Consistent with other law and the requirements necessary to maintain federal program authorization, the commission by rule shall develop standards ~~[a uniform standard]~~ for evaluating and using compliance history that ensure consistency. In developing the standards, the commission may account for differences among regulated entities.

(b) The components of compliance history must include:

(1) enforcement orders, court judgments, ~~[consent decrees,]~~ and criminal convictions of this state ~~[and the federal government]~~ relating to compliance with applicable legal requirements under the jurisdiction of the commission ~~[or the United States Environmental Protection Agency];~~

(2) notwithstanding any other provision of this code, orders issued under Section 7.070;

(3) to the extent readily available to the commission, enforcement orders, court judgments, consent decrees, and criminal convictions relating to violations of environmental rules ~~[laws]~~ of the United States Environmental Protection Agency ~~[other states]~~; and

(4) changes in ownership.

(d) Except as provided by this subsection, notices of violation must be included as a component of compliance history for a period not to exceed one year from the date of issuance of each notice of violation. The listing of a notice of violation must be preceded by the following statement prominently displayed: "A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action nor proof that a violation has actually occurred." [The set of components shall include notices of violations.] A notice of violation administratively determined to be without merit may ~~shall~~ not be included in a compliance history. A notice of violation that is included in a compliance history shall be removed from the compliance history if the commission subsequently determines the notice of violation to be without merit.

(d-1) For purposes of listing compliance history, the commission may not include as a notice of violation information received by the commission as required by Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.) unless the commission issues a written notice of violation. Final enforcement orders or judgments resulting from self-reported Title V deviations or violations may be considered as compliance history components for purposes of determining compliance history.

SECTION 4.05. Section 5.754, Water Code, is amended by amending Subsections (a), (b), (c), (d), (e), (g), and (h) and adding Subsection (e-1) to read as follows:

(a) The commission by rule shall establish a set of standards for the classification of a person's compliance history as a means of evaluating compliance history. The commission may consider the person's classification when using compliance history under Subsection (e).

(b) Rules adopted under Subsection (a):

(1) [this section] must, at a minimum, provide for three classifications of compliance history in a manner adequate to distinguish among:

(A) unsatisfactory ~~[(1) poor]~~ performers, or regulated entities that in the commission's judgment perform below minimal acceptable performance standards established by the commission ~~[average]~~;

(B) satisfactory ~~[(2) average]~~ performers, or regulated entities that generally comply with environmental regulations; and

(C) ~~[(3)]~~ high performers, or regulated entities that have an above-satisfactory ~~[above average]~~ compliance record;

(2) may establish a category of unclassified performers, or regulated entities for which the commission does not have adequate compliance information about the site; and

(3) must take into account both positive and negative factors related to the operation, size, and complexity of the site, including whether the site is subject to Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.).

(c) In classifying a person's compliance history, the commission shall:

(1) determine whether a violation of an applicable legal requirement is of major, moderate, or minor significance;

(2) establish criteria for classifying a repeat violator, giving consideration to the size [number] and complexity of the site at which the violations occurred, and limiting consideration to violations of the same nature and the same environmental media that occurred in the preceding five years [facilities owned or operated by the person]; and

(3) consider:

(A) the significance of the violation and whether the person is a repeat violator;

(B) the size and complexity of the site, including whether the site is subject to Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.); and

(C) the potential for a violation at the site that is attributable to the nature and complexity of the site.

(d) The commission by rule may require ~~[shall establish methods of assessing the compliance history of regulated entities for which it does not have adequate compliance information. The methods may include requiring]~~ a compliance inspection to determine an entity's eligibility for participation in a program that requires a high level of compliance.

(e) The commission by rule shall provide for the use of compliance history ~~[classifications]~~ in commission decisions regarding:

(1) the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit;

(2) enforcement;

(3) the use of announced inspections; and

(4) participation in innovative programs.

(e-1) The amount of the penalty enhancement or escalation attributed to compliance history may not exceed 100 percent of the base penalty for an individual violation as determined by the commission's penalty policy.

(g) Rules adopted under Subsection (e) for the use of compliance history shall provide for additional oversight of, and review of applications regarding, facilities owned or operated by a person whose compliance performance is classified as unsatisfactory according to commission standards ~~[in the lowest classification developed under this section].~~

(h) The commission by rule shall, at a minimum, prohibit a person whose compliance history is classified as unsatisfactory according to commission standards ~~[in the lowest classification developed under this section]~~ from[:

(1) receiving an announced inspection; and

~~(2)~~ obtaining or renewing a flexible permit under the program administered by the commission under Chapter 382, Health and Safety Code, or participating in the regulatory flexibility program administered by the commission under Section 5.758.

SECTION 4.06. Section 5.755(b), Water Code, is amended to read as follows:

(b) The strategically directed regulatory structure shall offer incentives based on:

- (1) a person's compliance history ~~[classification]~~; and
- (2) any voluntary measures undertaken by the person to improve environmental quality.

SECTION 4.07. Section 5.756, Water Code, is amended by adding Subsection (e) to read as follows:

(e) Before compliance performance information about a site may be placed on the Internet under this subchapter, the information must be evaluated through a quality assurance and control procedure, including a 30-day period for the owner or operator of the site to review and comment on the information.

SECTION 4.08. Sections 5.758(a), (b), (d), and (h), Water Code, are amended to read as follows:

(a) The commission by order may exempt an applicant from a requirement of a statute or commission rule regarding the control or abatement of pollution if the applicant proposes to control or abate pollution by an alternative method or by applying an alternative standard that is:

- (1) as [more] protective of the environment and the public health as [than] the method or standard prescribed by the statute or commission rule that would otherwise apply; and
- (2) not inconsistent with federal law.

(b) The commission may not exempt an applicant under this section unless the applicant can present to the commission ~~[documented]~~ evidence that the alternative the applicant proposes is as protective of the environment and the public health as the method or standard prescribed by the statute or commission rule that would otherwise apply [of benefits to environmental quality that will result from the project the applicant proposes].

(d) The commission's order must provide a ~~[specific]~~ description of the alternative method or standard and condition the exemption on compliance with the method or standard as the order prescribes.

(h) In implementing the program of regulatory flexibility authorized by this section, the commission shall:

- (1) promote [market] the program to businesses in the state through all available appropriate media;
- (2) endorse alternative methods that will clearly benefit the environment and impose the least onerous restrictions on business;
- (3) fix and enforce environmental standards, allowing businesses flexibility in meeting the standards in a manner that clearly enhances environmental outcomes; and

(4) work to achieve consistent and predictable results for the regulated community and shorter waits for permit issuance.

SECTION 4.09. Subchapter A, Chapter 7, Water Code, is amended by adding Section 7.006 to read as follows:

Sec. 7.006. ENFORCEMENT POLICIES. (a) The commission by rule shall adopt a general enforcement policy that describes the commission's approach to enforcement.

(b) The commission shall assess, update, and publicly adopt specific enforcement policies regularly, including policies regarding the calculation of penalties and deterrence to prevent the economic benefit of noncompliance.

(c) The commission shall make the policies available to the public, including by posting the policies on the commission's Internet website.

SECTION 4.10. Sections 7.052(a) and (c), Water Code, are amended to read as follows:

(a) The amount of the penalty for a violation of Chapter 37 of this code, Chapter 366, 371, or 372, Health and Safety Code, or Chapter 1903, Occupations Code, may not exceed \$5,000 [~~\$2,500~~] a day for each violation.

(c) The amount of the penalty for all other violations within the jurisdiction of the commission to enforce may not exceed \$25,000 [~~\$10,000~~] a day for each violation.

SECTION 4.11. Section 7.067, Water Code, is amended to read as follows:

Sec. 7.067. SUPPLEMENTAL ENVIRONMENTAL PROJECTS. (a) The commission may compromise, modify, or remit, with or without conditions, an administrative penalty imposed under this subchapter. In determining the appropriate amount of a penalty for settlement of an administrative enforcement matter, the commission may consider a respondent's willingness to contribute to supplemental environmental projects that are approved by the commission, giving preference to projects that benefit the community in which the alleged violation occurred. The commission may encourage the cleanup of contaminated property through the use of supplemental environmental projects. The commission may approve a supplemental environmental project with activities in territory of the United Mexican States if the project substantially benefits territory in this state in a manner described by Subsection (b). Except as provided by Subsection (a-1), the [The] commission may not approve a project that is necessary to bring a respondent into compliance with environmental laws, that is necessary to remediate environmental harm caused by the respondent's alleged violation, or that the respondent has already agreed to perform under a preexisting agreement with a governmental agency.

(a-1) The commission may approve a supplemental environmental project that is necessary to bring a respondent into compliance with environmental laws or that is necessary to remediate environmental harm caused by the respondent's alleged violation if the respondent is a local government.

(a-2) The commission shall develop a policy to prevent regulated entities from systematically avoiding compliance through the use of supplemental environmental projects under Subsection (a-1), including a requirement for an assessment of:

(1) the respondent's financial ability to pay administrative penalties;  
(2) the ability of the respondent to remediate the harm or come into compliance; and  
(3) the need for corrective action.

(b) In this section:

(1) "Local government" means a school district, county, municipality, junior college district, river authority, water district or other special district, or other political subdivision created under the constitution or a statute of this state.

(2) "Supplemental [~~-, "supplemental]~~ environmental project" means a project that prevents pollution, reduces the amount of pollutants reaching the environment, enhances the quality of the environment, or contributes to public awareness of environmental matters.

SECTION 4.12. Section 13.4151(a), Water Code, is amended to read as follows:

(a) If a person, affiliated interest, or entity subject to the jurisdiction of the commission violates this chapter or a rule or order adopted under this chapter, the commission may assess a penalty against that person, affiliated interest, or entity as provided by this section. The penalty may be in an amount not to exceed \$5,000 [~~\$500~~] a day. Each day a violation continues may be considered a separate violation.

SECTION 4.13. Section 26.028(d), Water Code, is amended to read as follows:

(d) Notwithstanding any other provision of this chapter, the commission, at a regular meeting without the necessity of holding a public hearing, may approve an application to renew or amend a permit if:

(1) the applicant is not applying to:

(A) increase significantly the quantity of waste authorized to be discharged; or

(B) change materially the pattern or place of discharge;

(2) the activities to be authorized by the renewed or amended permit will maintain or improve the quality of waste authorized to be discharged;

(3) for NPDES permits, notice and the opportunity to request a public meeting shall be given in compliance with NPDES program requirements, and the commission shall consider and respond to all timely received and significant public comment; and

(4) the commission determines that an applicant's compliance history under the method for using [~~evaluating~~] compliance history developed by the commission under Section 5.754 raises no issues regarding the applicant's ability to comply with a material term of its permit.

SECTION 4.14. Section 26.0281, Water Code, is amended to read as follows:

Sec. 26.0281. CONSIDERATION OF COMPLIANCE HISTORY. In considering the issuance, amendment, or renewal of a permit to discharge effluent comprised primarily of sewage or municipal waste, the commission shall consider the compliance history of the applicant and its operator under the method for using [~~evaluating~~] compliance history developed by the commission

under Section 5.754. In considering an applicant's compliance history under this subsection, the commission shall consider as evidence of compliance information regarding the applicant's implementation of an environmental management system at the facility for which the permit, permit amendment, or permit renewal is sought. In this section, "environmental management system" has the meaning assigned by Section 5.127.

SECTION 4.15. Section 26.040(h), Water Code, is amended to read as follows:

(h) Notwithstanding other provisions of this chapter, the commission, after hearing, shall deny or suspend a discharger's authority to discharge under a general permit if the commission determines that the discharger's compliance history is classified as unsatisfactory according to commission standards ~~[in the lowest classification]~~ under Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections. A hearing under this subsection is not subject to Chapter 2001, Government Code.

SECTION 4.16. Section 26.3467, Water Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A person may not deliver any regulated substance into an underground storage tank regulated under this chapter unless the underground storage tank has been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346. The commission may impose an administrative penalty against a person who violates this subsection. The commission shall adopt rules as necessary to enforce this subsection.

(e) It is an affirmative defense to the imposition of an administrative penalty for a violation of Subsection (d) that the person delivering a regulated substance into an underground storage tank relied on:

(1) a valid paper delivery certificate presented by the owner or operator of the underground storage tank or displayed at the facility associated with the underground storage tank;

(2) a temporary delivery authorization presented by the owner or operator of the underground storage tank or displayed at the facility associated with the underground storage tank; or

(3) registration and self-certification information for the underground storage tank obtained from the commission's Internet website not more than 30 days before the date of delivery.

SECTION 4.17. Section 26.351, Water Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) The commission may undertake corrective action to remove an underground or aboveground storage tank that:

(1) is not in compliance with the requirements of this chapter;

(2) is out of service;

(3) presents a contamination risk; and

(4) is owned or operated by a person who is financially unable to remove the tank.

(c-2) The commission shall adopt rules to implement Subsection (c-1), including rules regarding:

(1) the determination of the financial ability of the tank owner or operator to remove the tank; and

(2) the assessment of the potential risk of contamination from the site.

SECTION 4.18. Section 26.3573(d), Water Code, is amended to read as follows:

(d) The commission may use the money in the petroleum storage tank remediation account to pay:

(1) necessary expenses associated with the administration of the petroleum storage tank remediation account and the groundwater protection cleanup program;

(2) expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release from a petroleum storage tank, whether those expenses are incurred by the commission or pursuant to a contract between a contractor and an eligible owner or operator as authorized by this subchapter;

(3) subject to the conditions of Subsection (f), expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release of hydraulic fluid or spent oil from hydraulic lift systems or tanks located at a vehicle service and fueling facility and used as part of the operations of that facility; ~~and~~

(4) expenses associated with assuring compliance with the commission's applicable underground or aboveground storage tank administrative and technical requirements, including technical assistance and support, inspections, enforcement, and the provision of matching funds for grants; and

(5) expenses associated with investigation, cleanup, or corrective action measures performed under Section 26.351(c-1).

SECTION 4.19. Section 26.3574, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Each operator of a bulk facility on withdrawal from bulk of a petroleum product shall collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) not more than \$3.75 for each delivery into a cargo tank having a capacity of less than 2,500 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(2) not more than \$7.50 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(3) not more than \$11.75 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(4) not more than \$15.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~]; and

(5) not more than \$7.50 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~].

(b-1) The commission by rule shall set the amount of the fee in Subsection (b) in an amount not to exceed the amount necessary to cover the agency's costs of administering this subchapter, as indicated by the amount appropriated by the legislature from the petroleum storage tank remediation account for that purpose.

SECTION 4.20. Section 27.025(g), Water Code, is amended to read as follows:

(g) Notwithstanding the other provisions of this chapter, the commission, after hearing, shall deny or suspend authorization for the use of an injection well under a general permit if the commission determines that the owner's compliance history is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections. A hearing under this subsection is not subject to the requirements relating to a contested case hearing under Chapter 2001, Government Code.

SECTION 4.21. Section 27.051(d), Water Code, is amended to read as follows:

(d) The commission, in determining if the use or installation of an injection well is in the public interest under Subsection (a)(1), shall consider, but shall not be limited to the consideration of:

(1) compliance history of the applicant and related entities under the method for using [~~evaluating~~] compliance history developed by the commission under Section 5.754 and in accordance with the provisions of Subsection (e);

(2) whether there is a practical, economic, and feasible alternative to an injection well reasonably available; and

(3) if the injection well will be used for the disposal of hazardous waste, whether the applicant will maintain sufficient public liability insurance for bodily injury and property damage to third parties that is caused by sudden and non-sudden accidents or will otherwise demonstrate financial responsibility in a manner adopted by the commission in lieu of public liability insurance. A liability insurance policy which satisfies the policy limits required by the hazardous waste management regulations of the commission for the applicant's proposed pre-injection facilities shall be deemed "sufficient" under this subdivision if the policy:

(A) covers the injection well; and

(B) is issued by a company that is authorized to do business and to write that kind of insurance in this state and is solvent and not currently under supervision or in conservatorship or receivership in this state or any other state.

SECTION 4.22. Section 32.101(c), Water Code, is amended to read as follows:

(c) The commission, in determining if the use or installation of a subsurface area drip dispersal system is in the public interest under Subsection (a)(1), shall consider:

(1) compliance history of the applicant and related entities under the method for using [evaluating] compliance history developed by the commission under Section 5.754 and in accordance with the provisions of Subsection (d) of this section;

(2) whether there is a practical, economic, and feasible alternative to a subsurface area drip dispersal system reasonably available; and

(3) any other factor the commission considers relevant.

SECTION 4.23. Section 49.198(a), Water Code, is amended to read as follows:

(a) A district may elect to file annual financial reports with the executive director in lieu of the district's compliance with Section 49.191 provided:

(1) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(2) the district did not have gross receipts from operations, loans, taxes, or contributions in excess of \$250,000 [~~\$100,000~~] during the fiscal period; and

(3) the district's cash and temporary investments were not in excess of \$100,000 at any time during the fiscal period.

SECTION 4.24. Sections 361.089(a), (e), and (f), Health and Safety Code, are amended to read as follows:

(a) The commission may, for good cause, deny or amend a permit it issues or has authority to issue for reasons pertaining to public health, air or water pollution, or land use, or for having a compliance history that is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections.

(e) The commission may deny an original or renewal permit if it is found, after notice and hearing, that:

(1) the applicant or permit holder has a compliance history that is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections;

(2) the permit holder or applicant made a false or misleading statement in connection with an original or renewal application, either in the formal application or in any other written instrument relating to the application submitted to the commission, its officers, or its employees;

(3) the permit holder or applicant is indebted to the state for fees, payment of penalties, or taxes imposed by this title or by a rule of the commission; or

(4) the permit holder or applicant is unable to ensure that the management of the hazardous waste management facility conforms or will conform to this title and the rules of the commission.

(f) Before denying a permit under this section, the commission must find:

(1) that the applicant or permit holder has a compliance history that is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections; or

(2) that the permit holder or applicant is indebted to the state for fees, payment of penalties, or taxes imposed by this title or by a rule of the commission.

SECTION 4.25. Section 382.0518(c), Health and Safety Code, is amended to read as follows:

(c) In considering the issuance, amendment, or renewal of a permit, the commission may consider the applicant's compliance history in accordance with the method for using [~~evaluating~~] compliance history developed by the commission under Section 5.754, Water Code. In considering an applicant's compliance history under this subsection, the commission shall consider as evidence of compliance information regarding the applicant's implementation of an environmental management system at the facility for which the permit, permit amendment, or permit renewal is sought. In this subsection, "environmental management system" has the meaning assigned by Section 5.127, Water Code.

SECTION 4.26. Section 382.056(o), Health and Safety Code, is amended to read as follows:

(o) Notwithstanding other provisions of this chapter, the commission may hold a hearing on a permit amendment, modification, or renewal if the commission determines that the application involves a facility for which the applicant's compliance history is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections.

SECTION 4.27. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.059 to read as follows:

Sec. 382.059. HEARING AND DECISION ON PERMIT AMENDMENT APPLICATION OF CERTAIN ELECTRIC GENERATING FACILITIES. (a) This section applies to a permit amendment application submitted solely to allow an electric generating facility to reduce emissions and comply with a requirement imposed by Section 112 of the federal Clean Air Act (42 U.S.C. Section 7412) to use applicable maximum achievable control technology. A permit amendment application shall include a condition that the applicant is required to complete the actions needed for compliance by the time allowed under Section 112 of the federal Clean Air Act (42 U.S.C. Section 7412).

(b) The commission shall provide an opportunity for a public hearing and the submission of public comment on the application in the manner provided by Section 382.0561.

(c) Not later than the 45th day after the date the application is received, the executive director shall issue a draft permit.

(d) Not later than the 30th day after the date of issuance of the draft permit under Subsection (c), parties may submit to the commission any legitimate issues of material fact regarding whether the choice of technology approved in the draft permit is the maximum achievable control technology required under Section 112 of the federal Clean Air Act (42 U.S.C. Section 7412) and may request a contested case hearing before the commission. If a party requests a contested case hearing under this subsection, the commission shall conduct a contested case hearing and issue a final order issuing or denying the permit amendment not later than the 120th day after the date of issuance of the draft permit under Subsection (c).

(e) The commission shall send notice of a decision on an application for a permit amendment under this section in the manner provided by Section 382.0562.

(f) A person affected by a decision of the commission to issue or deny a permit amendment may move for rehearing and is entitled to judicial review under Section 382.032.

(g) This section expires on the sixth anniversary of the date the administrator adopts standards for existing electric generating facilities under Section 112 of the federal Clean Air Act (42 U.S.C. Section 7412), unless a stay of the rules is granted.

(h) The commission shall adopt rules to implement this section.

SECTION 4.28. Section 401.110(a), Health and Safety Code, is amended to read as follows:

(a) In making a determination whether to grant, deny, amend, renew, revoke, suspend, or restrict a license or registration, the commission may consider an applicant's or license holder's technical competence, financial qualifications, and compliance history under the method for using ~~evaluation of~~ compliance history developed by the commission under Section 5.754, Water Code.

SECTION 4.29. Section 401.112(a), Health and Safety Code, is amended to read as follows:

(a) The commission, in making a licensing decision on a specific license application to process or dispose of low-level radioactive waste from other persons, shall consider:

- (1) site suitability, geological, hydrological, and meteorological factors, and natural hazards;
- (2) compatibility with present uses of land near the site;
- (3) socioeconomic effects on surrounding communities of operation of the licensed activity and of associated transportation of low-level radioactive waste;
- (4) the need for and alternatives to the proposed activity, including an alternative siting analysis prepared by the applicant;
- (5) the applicant's qualifications, including:

(A) financial and technical qualifications and compliance history under the method for using ~~evaluation of~~ compliance history developed by the commission under Section 5.754, Water Code, for an application to the commission; and

(B) the demonstration of financial qualifications under Section 401.108;

- (6) background monitoring plans for the proposed site;
- (7) suitability of facilities associated with the proposed activities;
- (8) chemical, radiological, and biological characteristics of the low-level radioactive waste and waste classification under Section 401.053;
- (9) adequate insurance of the applicant to cover potential injury to any property or person, including potential injury from risks relating to transportation;
- (10) training programs for the applicant's employees;
- (11) a monitoring, record-keeping, and reporting program;
- (12) spill detection and cleanup plans for the licensed site and related to associated transportation of low-level radioactive waste;
- (13) decommissioning and postclosure care plans;
- (14) security plans;
- (15) worker monitoring and protection plans;
- (16) emergency plans; and
- (17) a monitoring program for applicants that includes prelicense and postlicense monitoring of background radioactive and chemical characteristics of the soils, groundwater, and vegetation.

SECTION 4.30. Not later than the 180th day after the effective date of this Act, the Texas Commission on Environmental Quality shall adopt rules to implement Section 382.059, Health and Safety Code, as added by this article.

SECTION 4.31. (a) Not later than September 1, 2012, the Texas Commission on Environmental Quality by rule shall establish the method for evaluating compliance history as required by Section 5.753(a), Water Code, as amended by this article. Until the commission adopts that method, the commission shall continue in effect its current standard for evaluating compliance history.

(b) The changes in law made by Sections 7.052 and 13.4151, Water Code, as amended by this article, apply only to a violation that occurs on or after the effective date of this Act. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date. A violation that occurs before the effective date of this Act is covered by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

(c) The change in law made by Section 26.3467(d), Water Code, as added by this article, applies only to a delivery of a regulated substance to an underground storage tank made on or after the effective date of this Act.

(d) The fee applicable to a delivery in Section 26.3574(b), Water Code, as that subsection existed immediately before the effective date of this Act, remains in effect until the Texas Commission on Environmental Quality adopts and implements a fee applicable to that delivery under Section 26.3574(b-1), Water Code, as added by this article.

SECTION 4.32. Section 49.198(a), Water Code, as amended by this article, applies to a district that files its annual financial report on or after the effective date of this Act. A district that files its annual financial report before the effective date of this Act is governed by the law in effect on the date the report is filed, and that law is continued in effect for that purpose.

#### ARTICLE 5. WATER RIGHTS

SECTION 5.01. Section 11.002(12), Water Code, is amended to read as follows:

(12) "Agriculture" means any of the following activities:

(A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;

(B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(D) raising or keeping equine animals;

(E) wildlife management; ~~and~~

(F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure; and

(G) aquaculture, as defined by Section 134.001, Agriculture Code.

SECTION 5.02. Section 11.031, Water Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) Each person who has a water right issued by the commission or who impounds, diverts, or otherwise uses state water shall maintain water use information required under Subsection (a) on a monthly basis during the months a water rights holder uses permitted water. The person shall make the information available to the commission on the commission's request.

(e) Except as provided by Subsection (a), the commission may request information maintained under Subsection (d) only during a drought or other emergency shortage of water or in response to a complaint.

(f) Subsection (e) does not affect the authority of a watermaster to obtain water use information under other law.

SECTION 5.03. Subchapter B, Chapter 11, Water Code, is amended by adding Section 11.053 to read as follows:

#### Sec. 11.053. EMERGENCY ORDER CONCERNING WATER RIGHTS.

(a) During a period of drought or other emergency shortage of water, as defined by commission rule, the executive director by order may, in accordance with the priority of water rights established by Section 11.027:

(1) temporarily suspend the right of any person who holds a water right to use the water; and

(2) temporarily adjust the diversions of water by water rights holders.

(b) The executive director in ordering a suspension or adjustment under this section shall ensure that an action taken:

- (1) maximizes the beneficial use of water;
- (2) minimizes the impact on water rights holders;
- (3) prevents the waste of water;
- (4) takes into consideration the efforts of the affected water rights holders to develop and implement the water conservation plans and drought contingency plans required by this chapter;
- (5) to the greatest extent practicable, conforms to the order of preferences established by Section 11.024; and
- (6) does not require the release of water that, at the time the order is issued, is lawfully stored in a reservoir under water rights associated with that reservoir.

(c) The commission shall adopt rules to implement this section, including rules:

(1) defining a drought or other emergency shortage of water for purposes of this section; and

(2) specifying the:

(A) conditions under which the executive director may issue an order under this section;

(B) terms of an order issued under this section, including the maximum duration of a temporary suspension or adjustment under this section; and

(C) procedures for notice of, an opportunity for a hearing on, and the appeal to the commission of an order issued under this section.

SECTION 5.04. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1273 to read as follows:

Sec. 11.1273. ADDITIONAL REQUIREMENT: REVIEW OF AMENDMENTS TO CERTAIN WATER MANAGEMENT PLANS. (a) This section applies only to a water management plan consisting of a reservoir operation plan for the operation of two water supply reservoirs that was originally required by a court order adjudicating the water rights for those reservoirs.

(b) Not later than the first anniversary of the date the executive director determines that an application to amend a water management plan is administratively complete, the executive director shall complete a technical review of the plan.

(c) If the executive director submits a written request for additional information to the applicant, the applicant shall submit the requested information to the executive director not later than the 30th day after the date the applicant receives the request or not later than the deadline agreed to by the executive director and the applicant, if applicable. The review period required by Subsection (b) for completing the technical review is tolled until the date the executive director receives the requested information from the applicant.

(d) The commission shall provide an opportunity for public comment and a public hearing on the application, consistent with the process for other water rights applications.

(e) If the commission receives a request for a hearing before the period for submitting public comments and requesting a hearing expires, the commission shall act on the request for a hearing and, if the request is denied, act on the application not later than the 60th day after the date the period expires. If a request for a hearing is not submitted before the period expires, the executive director may act on the application.

SECTION 5.05. Section 11.326, Water Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) For a water basin in which a watermaster is not appointed, the executive director shall:

(1) evaluate the water basin at least once every five years to determine whether a watermaster should be appointed; and

(2) report the findings and make recommendations to the commission.

(h) The commission shall:

(1) determine the criteria or risk factors to be considered in an evaluation under Subsection (g); and

(2) include the findings and recommendations under Subsection (g) in the commission's biennial report to the legislature.

#### ARTICLE 6. FUNDING

SECTION 6.01. Section 401.246(a), Health and Safety Code, is amended to read as follows:

(a) Compact waste disposal fees adopted by the commission must be sufficient to:

(1) allow the compact waste facility license holder to recover costs of operating and maintaining the compact waste disposal facility and a reasonable profit on the operation of that facility;

(2) provide an amount necessary to meet future costs of decommissioning, closing, and postclosure maintenance and surveillance of the compact waste disposal facility and the compact waste disposal facility portion of the disposal facility site;

(3) provide an amount to fund local public projects under Section 401.244;

(4) provide a reasonable rate of return on capital investment in the facilities used for management or disposal of compact waste at the compact waste disposal facility; ~~and~~

(5) provide an amount necessary to pay compact waste disposal facility licensing fees, to pay compact waste disposal facility fees set by rule or statute, and to provide security for the compact waste disposal facility as required by the commission under law and commission rules; and

(6) provide an amount necessary to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission.

SECTION 6.02. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Section 401.251 to read as follows:

Sec. 401.251. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION ACCOUNT. (a) The low-level radioactive waste disposal compact commission account is an account in the general revenue fund.

(b) The commission shall deposit in the account the portion of the fee collected under Section 401.245 that is calculated to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission as required by Section 4.04(4), Texas Low-Level Radioactive Waste Disposal Compact (Section 403.006 of this code).

(c) Money in the account may be appropriated only to support the operations of the Texas Low-Level Radioactive Waste Disposal Compact Commission.

SECTION 6.03. Sections 5.701(n) and (p), Water Code, are amended to read as follows:

(n)(1) Each provider of potable water or sewer utility service shall collect a regulatory assessment from each retail customer as follows:

(A) A public utility as defined in Section 13.002 [~~of this code~~] shall collect from each retail customer a regulatory assessment equal to one percent of the charge for retail water or sewer service.

(B) A water supply or sewer service corporation as defined in Section 13.002 [~~of this code~~] shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service.

(C) A district as defined in Section 49.001 [~~of this code~~] that provides potable water or sewer utility service to retail customers shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service.

(2) The regulatory assessment may be listed on the customer's bill as a separate item and shall be collected in addition to other charges for utility services.

(3) The [~~commission shall use the~~] assessments collected under this subsection may be appropriated by a rider to the General Appropriations Act to an agency with duties related to water and sewer utility regulation or representation of residential and small commercial consumers of water and sewer utility services solely to pay costs and expenses incurred by the agency [commission] in the regulation of districts, water supply or sewer service corporations, and public utilities under Chapter 13[~~, Water Code~~].

(4) The commission shall annually use a portion of the assessments to provide on-site technical assistance and training to public utilities, water supply or sewer service corporations, and districts. The commission shall contract with others to provide the services.

(5) The commission by rule may establish due dates, collection procedures, and penalties for late payment related to regulatory assessments under this subsection. The executive director shall collect all assessments from the utility service providers.

(6) The commission shall assess a penalty against a municipality with a population of more than 1.5 million that does not provide municipal water and sewer services in an annexed area in accordance with Section 43.0565, Local Government Code. A penalty assessed under this paragraph shall be not more than \$1,000 for each day the services are not provided after March 1, 1998, for

areas annexed before January 1, 1993, or not provided within 4-1/2 years after the effective date of the annexation for areas annexed on or after January 1, 1993. A penalty collected under this paragraph shall be deposited to the credit of the water resource management account to be used to provide water and sewer service to residents of the city.

(7) The regulatory assessment does not apply to water that has not been treated for the purpose of human consumption.

(p) Notwithstanding any other law, fees collected for deposit to the water resource management account under the following statutes may be appropriated and used to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under:

(1) Subsection (b), to the extent those fees are paid by water districts, and Subsections (e), (f), and (n);

(2) ~~Sections 13.4521 and 13.4522; or~~

~~[(3)]~~ Section 54.037(c); or

(3) Section 367.010, Health and Safety Code.

SECTION 6.04. Subchapter L, Chapter 13, Water Code, is repealed.

SECTION 6.05. The changes in law made by Section 5.701, Water Code, as amended by this article, apply only to a fee assessed on or after January 1, 2012. A fee assessed before January 1, 2012, is governed by the law in effect at the time the fee was assessed, and the former law is continued in effect for that purpose.

#### ARTICLE 7. WATER AND SEWER UTILITIES

SECTION 7.01. Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.1325 to read as follows:

Sec. 13.1325. ELECTRONIC COPIES OF RATE INFORMATION. On request, the state agency with jurisdiction over rates charged by water and sewer utilities shall provide, at a reasonable cost, electronic copies of all information provided to the agency under Sections 13.016, 13.043, and 13.187 to the extent that the information is available and is not confidential. Copies of all information provided to the agency shall be provided to the Office of Public Utility Counsel, on request, at no cost to the office.

#### ARTICLE 8. ABOLITION OF THE ON-SITE WASTEWATER TREATMENT RESEARCH COUNCIL

SECTION 8.01. The heading to Chapter 367, Health and Safety Code, is amended to read as follows:

CHAPTER 367. ON-SITE WASTEWATER TREATMENT RESEARCH  
[COUNCIL]

SECTION 8.02. Section 367.001, Health and Safety Code, is amended to read as follows:

Sec. 367.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on Environmental Quality ~~[Natural Resource Conservation Commission]~~.

(2) ~~"Council" means the On site Wastewater Treatment Research Council.~~

~~[(3)]~~ "On-site wastewater treatment system" means a system of treatment devices or disposal facilities that:

(A) is used for the disposal of domestic sewage, excluding liquid waste resulting from the processes used in industrial and commercial establishments;

(B) is located on the site where the sewage is produced; and

(C) produces not more than 5,000 gallons of waste a day.

SECTION 8.03. Section 367.007, Health and Safety Code, is amended to read as follows:

Sec. 367.007. ADMINISTRATION. (a) ~~[The council is not an advisory body to the commission. The commission, at the direction of the council, shall implement council decisions.]~~

~~[(b) The council may enter into an interagency contract with the commission to provide staff and other administrative support as required to improve the quality of wastewater treatment and reduce the cost of providing wastewater treatment to consumers.]~~

~~[(c)]~~ The commission ~~[council]~~ may accept grants and donations from other sources to supplement the fees collected under Section 367.010. Grants and donations shall be deposited to the credit of the water resource management ~~[on-site wastewater treatment research]~~ account and may be disbursed as the commission ~~[council]~~ directs and in accordance with Section 367.008.

(b) ~~[(d)]~~ Administrative and facilities support costs are payable from the water resources management ~~[on-site wastewater treatment research]~~ account.

~~[(e) The council may award grants and enter into contracts in its own name and on its own behalf.]~~

SECTION 8.04. Section 367.008, Health and Safety Code, is amended to read as follows:

Sec. 367.008. AWARD OF COMPETITIVE GRANTS. (a) The commission ~~[council]~~ shall establish procedures for awarding competitive grants and disbursing grant money.

(b) The commission ~~[council]~~ may award competitive grants to:

(1) support applied research and demonstration projects by accredited colleges and universities in this state, by other governmental entities, or by acceptable public or private research centers regarding on-site wastewater treatment technology and systems applicable to this state that are directed toward improving the quality of wastewater treatment and reducing the cost of providing wastewater treatment to consumers; and

(2) enhance technology transfer regarding on-site wastewater treatment by using educational courses, seminars, symposia, publications, and other forms of information dissemination.

(c) The commission shall seek the advice of relevant experts when choosing research topics, awarding grants, and holding educational conferences associated with activities under this chapter. ~~[The council may award grants or make other expenditures authorized under this chapter only after the comptroller certifies that the on-site wastewater treatment research account contains enough money to pay for those expenditures.]~~

SECTION 8.05. Section 367.009, Health and Safety Code, is amended to read as follows:

Sec. 367.009. APPROPRIATIONS. Money collected and appropriated for the purposes of this chapter shall be disbursed as the commission [~~council~~] directs and in accordance with Section 367.008.

SECTION 8.06. Section 367.010(d), Health and Safety Code, is amended to read as follows:

(d) The fee proceeds shall be deposited to the credit of the water resources management [~~on-site wastewater treatment research~~] account.

SECTION 8.07. Sections 367.002, 367.003, 367.004, 367.005, 367.006, and 367.011, Health and Safety Code, are repealed.

SECTION 8.08. (a) On the effective date of this Act, the Texas Commission on Environmental Quality shall assume the administration of all grants of the On-site Wastewater Treatment Research Council in existence on that date.

(b) The Texas Commission on Environmental Quality shall assume all contracts held by the On-site Wastewater Treatment Research Council on the effective date of this Act, including all rights and obligations associated with the contracts.

#### ARTICLE 9. RATE NOTIFICATION

SECTION 9.01. Section 13.043(i), Water Code, is amended to read as follows:

(i) The governing body of a municipally owned utility or a political subdivision, within 60 [~~30~~] days after the date of a final decision on a rate change, shall provide individual written notice to each ratepayer eligible to appeal who resides outside the boundaries of the municipality or the political subdivision. The notice must include, at a minimum, the effective date of the new rates, the new rates, and the location where additional information on rates can be obtained. The governing body of a municipally owned utility or a political subdivision may provide the notice electronically if the utility or political subdivision has access to a ratepayer's e-mail address.

SECTION 9.02. Section 13.187(b), Water Code, is amended to read as follows:

(b) A copy of the statement of intent shall be mailed, sent by e-mail, or delivered to the appropriate offices of each affected municipality, and to any other affected persons as required by the regulatory authority's rules.

#### ARTICLE 10. CONTESTED CASE HEARINGS

SECTION 10.01. Section 5.115(b), Water Code, is amended to read as follows:

(b) At the time an application for a permit or license under this code is filed with the executive director and is administratively complete, the commission shall give notice of the application to any person who may be affected by the granting of the permit or license. A state agency that receives notice under this subsection may submit comments to the commission in response to the notice but may not contest the issuance of a permit or license by the commission. For the purposes of this subsection, "state agency" does not include a river authority.

SECTION 10.02. Sections 5.228(c) and (d), Water Code, are amended to read as follows:

(c) The executive director shall ~~[may]~~ participate as a party in contested case permit hearings before the commission or the State Office of Administrative Hearings to:

~~(1) provide information [for the sole purpose of providing information] to complete the administrative record; and~~

~~(2) support the executive director's position developed in the underlying proceeding. [The commission by rule shall specify the factors the executive director must consider in determining, case by case, whether to participate as a party in a contested case permit hearing. In developing the rules under this subsection the commission shall consider, among other factors:~~

~~(1) the technical, legal, and financial capacity of the parties to the proceeding;~~

~~(2) whether the parties to the proceeding have participated in a previous contested case hearing;~~

~~(3) the complexity of the issues presented; and~~

~~(4) the available resources of commission staff.]~~

(d) In a contested case hearing relating to a permit application, the executive director or the executive director's designated representative may not rehabilitate the testimony of a witness unless the witness is a commission employee ~~[testifying for the sole purpose of providing information to complete the administrative record].~~

SECTION 10.03. Subchapter H, Chapter 5, Water Code, is amended by adding Section 5.315 to read as follows:

Sec. 5.315. DISCOVERY IN CASES USING PREFILED WRITTEN TESTIMONY. In a contested case hearing delegated by the commission to the State Office of Administrative Hearings that uses prefiled written testimony, all discovery must be completed before the deadline for the submission of that testimony, except for water and sewer ratemaking proceedings.

SECTION 10.04. Section 5.228(e), Water Code, is repealed.

SECTION 10.05. (a) Section 5.115(b), Water Code, as amended by this article, applies only to an application for the issuance, amendment, extension, or renewal of a permit or license that is received by the Texas Commission on Environmental Quality on or after the effective date of this Act. An application that is received before that date is governed by the law in effect at the time the application is received, and the former law is continued in effect for that purpose.

(b) The changes in law made by this article apply to a proceeding before the State Office of Administrative Hearings that is pending or filed on or after September 1, 2011.

#### ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. This Act takes effect September 1, 2011.

Representative W. Smith moved to adopt the conference committee report on **HB 2694**.

The motion to adopt the conference committee report on **HB 2694** prevailed by (Record 1641): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Callegari; Miller, S.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1641. I intended to vote no.

Anchia

I was shown voting yes on Record No. 1641. I intended to vote no.

Burnam

I was shown voting yes on Record No. 1641. I intended to vote no.

Gutierrez

I was shown voting yes on Record No. 1641. I intended to vote no.

Martinez Fischer

### HB 200 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Parker submitted the following conference committee report on **HB 200**:

Austin, Texas, May 26, 2011

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 200** 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

Ellis

Hegar

Huffman

Patrick

On the part of the senate

Parker

White

Marquez

Madden

Perry

On the part of the house

**HB 200**, A bill to be entitled An Act relating to the notification of the release of certain inmates given to certain courts, law enforcement agencies, and the United States Social Security Administration.

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

SECTION 1. Section 493.025, Government Code, is amended to read as follows:

Sec. 493.025. NOTIFICATION OF COURT OF RELEASE. On release of an inmate who discharges the inmate's sentence or on release of an inmate on parole or to mandatory supervision, the department promptly shall notify the clerk of the court in which the inmate was convicted of that fact. The notice must be provided by e-mail or other electronic communication.

SECTION 2. Chapter 493, Government Code, is amended by adding Section 493.030 to read as follows:

Sec. 493.030. NOTICE TO SOCIAL SECURITY ADMINISTRATION. (a) The department shall notify the United States Social Security Administration of the release or discharge of a prisoner who:

(1) immediately before the prisoner's confinement in a state correctional facility, was receiving:

(A) Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq.; or

(B) Social Security Disability Insurance (SSDI) benefits under 42 U.S.C. Section 401 et seq.; and

(2) before the release or discharge, was confined in the facility for a period of less than 12 consecutive months.

(b) The department shall provide the notice described by Subsection (a) to the United States Social Security Administration by mail and electronically immediately on the prisoner's release or discharge from custody. The department shall provide a copy of the notice to the prisoner at the time of the prisoner's release or discharge.

SECTION 3. Section 499.026(d), Government Code, is amended to read as follows:

(d) Not later than the 10th day before the date on which a parole panel proposes to release an inmate under this subchapter, the department shall give notice of the proposed release to the sheriff, the attorney representing the state, and the district judge of the county in which the defendant was convicted. If there was a change of venue in the case, the department shall also notify the sheriff, the

attorney representing the state, and the district judge of the county in which the prosecution was originated. Any notice required by this subsection must be provided by e-mail or other electronic communication.

SECTION 4. Section 499.051(a), Government Code, is amended to read as follows:

(a) On the release of an inmate determined by the department to be a member of a security threat group, the department shall notify the sheriff of the county to which the inmate is released and, if the inmate is released to a municipality, the chief of police for that municipality. The notice must state the date on which the inmate was released and state that the inmate has been determined by the department to be a member of a security threat group. The notice must be provided by e-mail or other electronic communication.

SECTION 5. Section 508.115, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The notice must be provided by e-mail or other electronic communication.

SECTION 6. Section 508.181(g), Government Code, is amended to read as follows:

(g) The division shall, on the first working day of each month, notify the sheriff of any county in which the total number of sex offenders under the supervision and control of the division residing in the county exceeds 10 percent of the total number of sex offenders in the state under the supervision and control of the division. The notice must be provided by e-mail or other electronic communication. If the total number of sex offenders under the supervision and control of the division residing in a county exceeds 22 percent of the total number of sex offenders in the state under the supervision and control of the division, a parole panel may require a sex offender to reside in that county only as required by Subsection (a) or for the reason stated in Subsection (b)(2)(B). In this subsection, "sex offender" means a person who is released on parole or to mandatory supervision after serving a sentence for an offense described by Section 508.187(a).

SECTION 7. Section 493.030, Government Code, as added by this Act, applies to the release or discharge of a prisoner from a state correctional facility that occurs on or after the effective date of this Act, regardless of the date the prisoner was initially confined in the state correctional facility.

SECTION 8. This Act takes effect September 1, 2011.

Representative Parker moved to adopt the conference committee report on **HB 200**.

The motion to adopt the conference committee report on **HB 200** prevailed by (Record 1642): 149 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher;

Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

### **SB 156 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative V. Gonzales submitted the conference committee report on **SB 156**.

Representative V. Gonzales moved to adopt the conference committee report on **SB 156**.

The motion to adopt the conference committee report on **SB 156** prevailed by (Record 1643): 97 Yeas, 45 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Berman; Branch; Brown; Burnam; Carter; Castro; Chisum; Christian; Coleman; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eissler; Farias; Farrar; Fletcher; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; King, S.; King, T.; Kuempel; Lewis; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Workman; Zerwas.

Nays — Anderson, R.; Beck; Bohac; Bonnen; Burkett; Button; Cain; Callegari; Cook; Creighton; Davis, S.; Driver; Flynn; Frullo; Garza; Gooden; Hancock; Hilderbran; Hughes; King, P.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lyne; Madden; Miller, D.; Miller, S.; Morrison; Parker; Paxton; Perry; Phillips; Price; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; White; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent — Eiland; Elkins; Harper-Brown; Keffer; Larson; Ritter; Torres.

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 1643. I intended to vote no.

Branch

I was shown voting yes on Record No. 1643. I intended to vote no.

Christian

I was shown voting yes on Record No. 1643. I intended to vote no.

Craddick

I was shown voting yes on Record No. 1643. I intended to vote no.

Huberty

I was shown voting yes on Record No. 1643. I intended to vote no.

Murphy

I was shown voting yes on Record No. 1643. I intended to vote no.

Smithee

I was shown voting yes on Record No. 1643. I intended to vote no.

Solomons

When Record No. 1643 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

I was shown voting yes on Record No. 1643. I intended to vote no.

Weber

I was shown voting yes on Record No. 1643. I intended to vote no.

Workman

**HB 871 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Y. Davis submitted the following conference committee report on **HB 871**:

Austin, Texas, May 26, 2011

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 871** 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  
Deuell

Y. Davis  
Coleman  
Gooden

Eltife  
Rodriguez  
On the part of the senate

Naishtat  
Reynolds  
On the part of the house

**HB 871**, A bill to be entitled An Act relating to indigent health care services that may be provided by a county.

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

SECTION 1. Section 61.0285(a), Health and Safety Code, is amended to read as follows:

(a) In addition to basic health care services provided under Section 61.028, a county may, in accordance with department rules adopted under Section 61.006, provide other medically necessary services or supplies that the county determines to be cost-effective, including:

- (1) ambulatory surgical center services;
- (2) diabetic and colostomy medical supplies and equipment;
- (3) durable medical equipment;
- (4) home and community health care services;
- (5) social work services;
- (6) psychological counseling services;
- (7) services provided by physician assistants, nurse practitioners, certified nurse midwives, clinical nurse specialists, and certified registered nurse anesthetists;
- (8) dental care;
- (9) vision care, including eyeglasses;
- (10) services provided by federally qualified health centers, as defined by 42 U.S.C. Section 1396d(l)(2)(B);
- (11) emergency medical services; ~~and~~
- (12) physical and occupational therapy services; and
- (13) any other appropriate health care service identified by department ~~board~~ rule that may be determined to be cost-effective.

SECTION 2. The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Section 61.0285, Health and Safety Code, as amended by this Act, as soon as practicable 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, 2011.

Representative Y. Davis moved to adopt the conference committee report on **HB 871**.

The motion to adopt the conference committee report on **HB 871** prevailed by (Record 1644): 79 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Berman; Burkett; Burnam; Button; Callegari; Carter; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Gallego; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hancock; Hardcastle; Hartnett;

Hernandez Luna; Hochberg; Hopson; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Kuempel; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Naishtat; Oliveira; Orr; Otto; Patrick; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Scott; Sheets; Smithee; Strama; Taylor, V.; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Workman.

Nays — Anderson, C.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Cain; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Harless; Harper-Brown; Hilderbran; Howard, C.; Huberty; Hughes; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, S.; Morrison; Murphy; Nash; Parker; Paxton; Peña; Perry; Phillips; Price; Riddle; Schwertner; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Truitt; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Giddings; Torres.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1644. I intended to vote no.

Carter

I was shown voting yes on Record No. 1644. I intended to vote no.

Isaac

When Record No. 1644 was taken, I was temporarily out of the house chamber. I would have voted no.

Torres

I was shown voting yes on Record No. 1644. I intended to vote no.

Workman

#### **HB 3268 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Lyne called up with senate amendments for consideration at this time,

**HB 3268**, A bill to be entitled An Act relating to permits for air contaminant emissions of stationary natural gas engines used in combined heating and power systems.

Representative Lyne moved to discharge the conferees and concur in the senate amendments to **HB 3268**.

The motion to discharge the conferees and concur in the senate amendments to **HB 3268** prevailed by (Record 1645): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Hughes; Torres.

#### STATEMENT OF VOTE

When Record No. 1645 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

#### Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3268** as follows:

On page 1, line 18, after "vehicle" insert "as defined by Section 382.003(9-a), Health and Safety Code."

#### **SB 377 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Riddle submitted the conference committee report on **SB 377**.

Representative Riddle moved to adopt the conference committee report on **SB 377**.

The motion to adopt the conference committee report on **SB 377** prevailed by (Record 1646): 132 Yeas, 14 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Hamilton; Hancock; Hardcastle;

Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Burnam; Dutton; Farrar; Gonzalez; Gutierrez; Howard, D.; Johnson; Marquez; Miles; Muñoz; Naishtat; Oliveira; Rodriguez; Veasey.

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

Absent — Anderson, C.; Giddings.

#### STATEMENTS OF VOTE

When Record No. 1646 was taken, I was in the house but away from my desk. I would have voted yes.

C. Anderson

I was shown voting no on Record No. 1646. I intended to vote yes.

Gutierrez

I was shown voting no on Record No. 1646. I intended to vote yes.

Muñoz

I was shown voting no on Record No. 1646. I intended to vote yes.

Oliveira

I was shown voting no on Record No. 1646. I intended to vote yes.

Rodriguez

#### REASON FOR VOTE

I voted present, not voting on **SB 377** because I cannot support a measure that would expand the death penalty in Texas prior to a thorough examination of our current conviction and exoneration processes.

Castro

#### **SB 647 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative L. Taylor submitted the conference committee report on **SB 647**.

Representative L. Taylor moved to adopt the conference committee report on **SB 647**.

The motion to adopt the conference committee report on **SB 647** prevailed by (Record 1647): 146 Yeas, 2 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; 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; Lucio; Lyne; Madden; Mallory Caraway; 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; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Simpson; Taylor, V.

Present, not voting — Mr. Speaker(C).

Absent — Geren.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1647. I intended to vote no.

S. Davis

When Record No. 1647 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

#### **SB 1489 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Madden submitted the conference committee report on **SB 1489**.

Representative Madden moved to adopt the conference committee report on **SB 1489**.

The motion to adopt the conference committee report on **SB 1489** prevailed by (Record 1648): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Button; Driver; Villarreal.

### **HB 2048 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Lyne submitted the following conference committee report on **HB 2048**:

Austin, Texas, May 26, 2011

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 2048** 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	Lyne
Nelson	Thompson
Seliger	Murphy
Hinojosa	Flynn
Whitmire	Gonzalez
On the part of the senate	On the part of the house

**HB 2048**, A bill to be entitled An Act relating to the collection and enforcement of state and local hotel occupancy taxes.

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

SECTION 1. Subchapter F, Chapter 156, Tax Code, is amended by adding Section 156.2513 to read as follows:

Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES AND COUNTIES. Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue, excluding penalties and interest and amounts paid under protest, derived from the collection of taxes imposed by this chapter that resulted from documentation or other information described by Section 351.008 or 352.008; and

(2) issue a warrant drawn on the general revenue fund in the amount of 20 percent of the revenue computed under Subdivision (1) to the municipality or county that provided the documentation or other information.

SECTION 2. Sections 351.004(a), (a-1), (a-2), and (a-3), Tax Code, are amended to read as follows:

(a) The ~~[municipal attorney or other attorney acting for the]~~ municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality, and who has failed to file a tax report or pay the tax when due, to collect the tax not paid or to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for:

(1) the municipality's reasonable attorney's fees;

(2) the costs of an audit conducted under Subsection (a-1)(1), as determined by the municipality using a reasonable rate, but only if:

(A) the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and

(B) the municipality has not received a disbursement from the comptroller as provided by Section 156.2513 related to the person's concurrent state tax delinquency described by Section 351.008; and

(3) a penalty equal to 15 percent of the total amount of the tax owed if the tax has been delinquent for at least one complete municipal fiscal quarter.

(a-1) If a person required to file a tax report under this chapter does not file the report as required by the municipality, the ~~[municipal attorney or other attorney acting for the]~~ municipality may determine the amount of tax due under this chapter by:

(1) conducting an audit of each hotel in relation to which the person did not file the report as required by the municipality; or

(2) using the tax report filed for the appropriate reporting period under Section 156.151 in relation to that hotel.

(a-2) If the person did not file a tax report under Section 156.151 for that reporting period in relation to that hotel, the ~~[municipal attorney or other attorney acting for the]~~ municipality may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this chapter or Section 156.151. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.

(a-3) The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance. A municipality may directly perform an audit authorized by this section or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A municipality shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this section.

SECTION 3. Subchapter A, Chapter 351, Tax Code, is amended by adding Section 351.008 to read as follows:

Sec. 351.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 351.004, a municipality obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the municipality shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a municipality under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the municipality as provided by Section 156.2513 to defray the cost of the municipal audit.

SECTION 4. Section 352.004, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) If a person required to file a tax report under this chapter does not file the report as required by the county, the county may determine the amount of tax due under this chapter by conducting an audit of each hotel in relation to which the person did not file the report as required by the county. A county may directly perform an audit authorized under this subsection or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A county shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this subsection.

SECTION 5. Subchapter A, Chapter 352, Tax Code, is amended by adding Section 352.008 to read as follows:

Sec. 352.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 352.004, a county obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the county shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a county under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the county as provided by Section 156.2513 to defray the cost of the county audit.

SECTION 6. The change in law made by this Act applies only to an audit performed by a municipality or county on or after the effective date of this Act. An audit performed by a municipality or county 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 7. This Act takes effect September 1, 2011.

Representative Lyne moved to adopt the conference committee report on **HB 2048**.

The motion to adopt the conference committee report on **HB 2048** prevailed by (Record 1649): 143 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; 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; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Cain.

Present, not voting — Mr. Speaker(C).

Absent — Martinez Fischer; Riddle; Smith, W.; Strama; Veasey.

#### STATEMENTS OF VOTE

I was shown voting no on Record No. 1649. I intended to vote yes.

Cain

When Record No. 1649 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

#### **HB 2729 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Callegari submitted the following conference committee report on **HB 2729**:

Austin, Texas, May 26, 2011

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 2729** 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	Callegari
Ellis	Cain
Eltife	Lozano
Jackson	Hunter
Zaffirini	Parker
On the part of the senate	On the part of the house

**HB 2729**, A bill to be entitled An Act relating to local government contracts with private entities for civil works projects and improvements to real property.

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

SECTION 1. Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.908 to read as follows:

Sec. 271.908. LOCAL GOVERNMENT CONTRACTS WITH PRIVATE ENTITIES FOR CIVIL WORKS PROJECTS AND IMPROVEMENTS TO REAL PROPERTY. (a) In this section, "civil works project" and "local governmental entity" have the meanings assigned by Section 271.181.

(b) A local governmental entity may contract with a private entity to act as the local governmental entity's agent in the design, development, financing, maintenance, operation, or construction, including oversight and inspection, of:

- (1) a civil works project; or
- (2) an improvement to real property.

(c) A local governmental entity contracting under this section shall:

(1) select the private entity based on the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) The selected private entity shall comply with:

(1) Chapters 1001 and 1051, Occupations Code;

(2) all laws relating to procurement of professional services under Chapter 2254, Government Code; and

(3) all laws relating to procurement under this chapter that apply to the local governmental entity that selected the private entity.

SECTION 2. This Act applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, 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, 2011.

Representative Callegari moved to adopt the conference committee report on **HB 2729**.

The motion to adopt the conference committee report on **HB 2729** prevailed by (Record 1650): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Eiland; Flynn.

#### STATEMENT OF VOTE

When Record No. 1650 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eiland

#### **HB 2226 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Truitt submitted the following conference committee report on **HB 2226**:

Austin, Texas, May 27, 2011

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 2226** 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  
Eltife  
Gallegos  
Nichols

Truitt  
C. Anderson  
Hernandez Luna  
Legler

Zaffirini  
On the part of the senate

Veasey  
On the part of the house

**HB 2226**, A bill to be entitled An Act relating to authorized investments for governmental entities.

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

SECTION 1. Section 2256.005(b), Government Code, is amended to read as follows:

(b) The investment policies must:

- (1) be written;
- (2) primarily emphasize safety of principal and liquidity;
- (3) address investment diversification, yield, and maturity and the quality and capability of investment management; and

(4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds; ~~and~~

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

SECTION 2. Section 2256.007(d), Government Code, is amended to read as follows:

(d) An investment officer shall attend a training session not less than once each state fiscal biennium ~~[in a two-year period]~~ and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

SECTION 3. Sections 2256.008(a) and (b), Government Code, are amended to read as follows:

(a) Except as provided by Subsections (b) and (e), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

- (1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

SECTION 4. Section 2256.009(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and

(6) bonds issued, assumed, or guaranteed by the State of Israel.

SECTION 5. Section 2256.010(b), Government Code, is amended to read as follows:

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) [acts] as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity~~;~~ and

~~[(5) at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution selected by the investing entity under Subdivision (1) receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution selected under Subdivision (1)].~~

SECTION 6. Section 2256.011(a), Government Code, is amended to read as follows:

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

(1) has a defined termination date;

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

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

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

SECTION 7. Section 2256.016, Government Code, is amended by amending Subsections (a), (c), and (f) and adding Subsections (i), (j), and (k) to read as follows:

(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in

authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool created to function as a money market mutual fund shall report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

SECTION 8. Section 2256.019, Government Code, is amended to read as follows:

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service ~~[or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days].~~

SECTION 9. Section 2256.023(b), Government Code, is amended to read as follows:

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement~~[- prepared in compliance with generally accepted accounting principles,]~~ of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ~~[additions and changes to the market value during the period;~~

~~[-]~~ ending market value for the period; and

~~[-]~~ fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the ~~[beginning and]~~ end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Representative Truitt moved to adopt the conference committee report on **HB 2226**.

The motion to adopt the conference committee report on **HB 2226** prevailed by (Record 1651): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Legler.

### **SB 875 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Hancock submitted the conference committee report on **SB 875**.

Representative Hancock moved to adopt the conference committee report on **SB 875**.

The motion to adopt the conference committee report on **SB 875** prevailed by (Record 1652): 135 Yeas, 7 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Martinez; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Anchia; Burkett; Castro; Gonzalez; King, S.; Marquez.

Present, not voting — Mr. Speaker(C).

Absent — Cain; Dutton; Farrar; Giddings; Harper-Brown; Mallory Caraway; Martinez Fischer.

### STATEMENTS OF VOTE

When Record No. 1652 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

I was shown voting yes on Record No. 1652. I intended to vote no.

Dukes

I was shown voting yes on Record No. 1652. I intended to vote no.

D. Howard

When Record No. 1652 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

I was shown voting yes on Record No. 1652. I intended to vote no.

McClendon

I was shown voting yes on Record No. 1652. I intended to vote no.

Naishtat

I was shown voting yes on Record No. 1652. I intended to vote no.

Rodriguez

I was shown voting yes on Record No. 1652. I intended to vote no.

Simpson

I was shown voting yes on Record No. 1652. I intended to vote no.

Thompson

### SB 1338 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Geren submitted the conference committee report on **SB 1338**.

Representative Geren moved to adopt the conference committee report on **SB 1338**.

The motion to adopt the conference committee report on **SB 1338** prevailed by (Record 1653): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lozano; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent — Lewis.

#### STATEMENT OF VOTE

I was shown voting present, not voting on Record No. 1653. I intended to vote yes.

Cain

#### HB 2734 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Madden submitted the following conference committee report on **HB 2734**:

Austin, Texas, May 27, 2011

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 2734** 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  
Hinojosa  
Nichols  
Shapiro  
Wentworth

Madden  
Allen  
Cain  
Hunter  
Parker

On the part of the senate

On the part of the house

**HB 2734**, A bill to be entitled An Act relating to certain mandatory conditions of parole or mandatory supervision for illegal criminal aliens and the revocation of parole or mandatory supervision as a result of violating those conditions.

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

SECTION 1. Subchapter F, Chapter 508, Government Code, is amended by adding Section 508.192 to read as follows:

Sec. 508.192. REENTRY INTO THE UNITED STATES PROHIBITED.

(a) In this section, "illegal criminal alien" has the meaning assigned by Section 493.015.

(b) A parole panel shall require as a condition of parole or mandatory supervision that an illegal criminal alien released to the custody of United States Immigration and Customs Enforcement:

(1) regardless of whether a final order of deportation is issued with reference to the illegal criminal alien, leave the United States as soon as possible after release; and

(2) not unlawfully return to or unlawfully reenter the United States in violation of the Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.).

SECTION 2. Section 508.281, Government Code, is amended by adding Subsection (d) to read as follows:

(d) If a parole panel or designated agent of the board determines that a releasee has violated a condition of release required under Section 508.192 and confirms the violation with a peace officer or other law enforcement officer of this state who is authorized under federal law to verify a person's immigration status or, in accordance with 8 U.S.C. Section 1373(c), with a federal law enforcement officer, the determination is considered to be a sufficient hearing to revoke the parole or mandatory supervision without further hearing or determination, except that the parole panel or designated agent shall conduct a hearing to consider mitigating circumstances, if requested by the releasee.

SECTION 3. Section 508.192, Government Code, as added by this Act, applies only to a person who is released on parole or to mandatory supervision on or after the effective date of this Act.

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

Representative Madden moved to adopt the conference committee report on **HB 2734**.

The motion to adopt the conference committee report on **HB 2734** prevailed by (Record 1654): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.;

Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; 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; Mallory Caraway; 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; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Hochberg; Rodriguez; Villarreal.

**HB 1178 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Flynn submitted the following conference committee report on **HB 1178**:

Austin, Texas, May 26, 2011

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 1178** 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.

Birdwell	Flynn
Estes	Berman
Harris	Guillen
Van de Putte	Peña
Seliger	Zedler
On the part of the senate	On the part of the house

**HB 1178**, A bill to be entitled An Act relating to employment protection for members of the state military forces and specialty license plates for female members of the armed forces.

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

SECTION 1. Section 431.001, Government Code, is amended by adding Subdivisions (5), (6), and (7) to read as follows:

(5) "Employee" has the meaning assigned by Section 21.002, Labor Code.

(6) "Employer" has the meaning assigned by Section 21.002, Labor Code.

(7) "Political subdivision" has the meaning assigned by Section 21.002, Labor Code.

SECTION 2. Section 431.006, Government Code, is amended to read as follows:

Sec. 431.006. REEMPLOYMENT OF PERSON CALLED TO TRAINING OR DUTY. (a) An [A-private] employer may not terminate the employment of an [a-permanent] employee who is a member of the state military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment.

(b) A violation of this section is an unlawful employment practice. A person injured by a violation of this section may file a complaint with the Texas Workforce Commission civil rights division under Subchapter K [is entitled to:

(1) damages in an amount not exceeding six months' compensation at the rate at which the person was compensated when ordered to training or duty; and

(2) reasonable attorney's fees approved by the court].

(c) It is a defense to an action under this section that the employer's circumstances changed while the employee was in training or on duty to an extent that makes reemployment impossible or unreasonable. The employer has the burden of proving the impossibility or unreasonableness of reemploying the employee under the employer's changed circumstances.

(d) An employer may not delay or attempt to defeat a reemployment obligation under this section by demanding documentation that does not exist or is not readily available at the time notice is given under Subsection (a).]

SECTION 3. Chapter 431, Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ADMINISTRATIVE REVIEW AND JUDICIAL ENFORCEMENT

Sec. 431.151. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Workforce Commission civil rights division.

(2) "Complainant" means an individual who brings an action or proceeding under this subchapter.

(3) "Respondent" means the person charged in a complaint filed under this subchapter.

Sec. 431.152. FILING OF COMPLAINT; FORM AND CONTENT; SERVICE. (a) A person claiming to be aggrieved by an unlawful employment practice under Section 431.006 or the person's agent may file a complaint with the commission.

(b) The complaint must be in writing and made under oath.

(c) The complaint must state:

(1) that an unlawful employment practice under Section 431.006 has been committed;

(2) the facts on which the complaint is based, including the date, place, and circumstances of the alleged unlawful employment practice; and

(3) facts sufficient to enable the commission to identify the respondent.

(d) The commission shall serve the respondent with a copy of the perfected complaint not later than the 10th day after the date the complaint is filed.

(e) A complaint may be amended to cure technical defects or omissions, including a failure to verify the complaint or to clarify and amplify an allegation made in the complaint.

(f) An amendment to a complaint alleging additional facts that constitute an unlawful employment practice under Section 431.006 relating to or arising from the subject matter of the original complaint relates back to the date the complaint was first received by the commission.

Sec. 431.153. ALTERNATIVE DISPUTE RESOLUTION. The use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under Section 431.006. The settlement of a disputed claim under this subchapter that results from the use of traditional or alternative means of dispute resolution is binding on the parties to the claim.

Sec. 431.154. INVESTIGATION BY COMMISSION. The commission shall investigate a complaint arising under Section 431.006 and determine if there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in the complaint.

Sec. 431.155. LACK OF REASONABLE CAUSE; DISMISSAL OF COMPLAINT. (a) If, after investigation, the commission determines that reasonable cause does not exist to believe that the respondent engaged in an unlawful employment practice under Section 431.006 as alleged in a complaint, the commission shall issue a written determination incorporating the finding that the evidence does not support the complaint and dismissing the complaint.

(b) The commission shall serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Sec. 431.156. DETERMINATION OF REASONABLE CAUSE; REVIEW BY PANEL. If, after investigation, the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice under Section 431.006 as alleged in a complaint, the commission shall:

(1) issue a written determination incorporating the finding that the evidence supports the complaint; and

(2) serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Sec. 431.157. RESOLUTION BY INFORMAL METHODS. (a) If a determination of reasonable cause is made, the commission shall endeavor to eliminate the alleged unlawful employment practice arising under Section 431.006 by informal methods of conference, conciliation, and persuasion.

(b) Without the written consent of the complainant and respondent, the commission, its executive director, or its other officers or employees may not disclose to the public information about the efforts in a particular case to resolve an alleged unlawful employment practice by conference, conciliation, or persuasion, regardless of whether there is a determination of reasonable cause.

Sec. 431.158. NOTICE OF DISMISSAL OR UNRESOLVED COMPLAINT. If the commission dismisses a complaint or does not resolve the complaint, the commission shall inform the complainant of the dismissal or failure to resolve the complaint in writing by certified mail.

Sec. 431.159. TEMPORARY INJUNCTIVE RELIEF. (a) If the commission concludes from a preliminary investigation of an unlawful employment practice arising under Section 431.006 alleged in a complaint that prompt judicial action is necessary, the commission shall file a petition seeking appropriate temporary relief against the respondent pending final determination of a proceeding under this subchapter.

(b) The petition shall be filed in a district court in a county in which:

(1) the alleged unlawful employment practice that is the subject of the complaint occurred; or

(2) the respondent resides.

(c) A court may not issue temporary injunctive relief unless the commission shows:

(1) a substantial likelihood of success on the merits; and

(2) irreparable harm to the complainant in the absence of the preliminary relief pending final determination on the merits.

Sec. 431.160. CIVIL ACTION BY COMMISSION. (a) The commission may bring a civil action against a respondent if:

(1) the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice under Section 431.006; and

(2) the commission's efforts to resolve the discriminatory practice to the satisfaction of the complainant and respondent through informal methods have been unsuccessful.

(b) The complainant may intervene in a civil action brought by the commission.

Sec. 431.161. NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION. (a) A complainant who receives notice under Section 431.158 that the complaint is dismissed or not resolved is entitled to request from the commission a written notice of the complainant's right to file a civil action.

(b) The complainant must request the notice in writing.

(c) The executive director of the commission may issue the notice.

(d) Failure of the executive director of the commission to issue the notice of a complainant's right to file a civil action does not affect the complainant's right under this subchapter to bring a civil action against the respondent.

Sec. 431.162. CIVIL ACTION BY COMPLAINANT. Within 60 days after the date a notice of the right to file a civil action is received, the complainant may bring a civil action against the respondent.

Sec. 431.163. COMMISSION'S INTERVENTION IN CIVIL ACTION BY COMPLAINANT. After receipt of a timely application, a court may permit the commission to intervene in a civil action filed under Section 431.162 if:

(1) the commission certifies that the case is of general public importance; and

(2) before commencement of the action, the commission issued a determination of reasonable cause to believe that Section 431.006 was violated.

Sec. 431.164. ASSIGNMENT TO EARLY HEARING. The court shall set an action brought under this subchapter for hearing at the earliest practicable date to expedite the action.

Sec. 431.165. INJUNCTION; EQUITABLE RELIEF. (a) On finding that a respondent engaged in an unlawful employment practice under Section 431.006 as alleged in a complaint, a court may:

(1) prohibit by injunction the respondent from engaging in an unlawful employment practice under Section 431.006; and

(2) order additional equitable relief as may be appropriate.

(b) Additional equitable relief may include:

(1) hiring or reinstating with or without back pay;

(2) upgrading an employee with or without pay; and

(3) paying court costs.

(c) Liability under a back pay award may not accrue for a date more than two years before the date a complaint is filed with the commission. Interim earnings, workers' compensation benefits, and unemployment compensation benefits received operate to reduce the back pay otherwise allowable.

Sec. 431.166. COMPENSATORY AND PUNITIVE DAMAGES. (a) On finding that a respondent engaged in an intentional unlawful employment practice under Section 431.006 as alleged in a complaint, a court may, as provided by this section, award:

(1) compensatory damages; and

(2) punitive damages.

(b) A complainant may recover punitive damages against a respondent, other than a respondent that is a governmental entity, if the complainant demonstrates that the respondent engaged in an unlawful employment practice under Section 431.006 with malice or with reckless indifference to the state-protected rights of an aggrieved individual.

(c) Compensatory damages awarded under this section may not include:

(1) back pay;

(2) interest on back pay; or

(3) other relief authorized under Section 431.165(b).

(d) The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed, for each complainant:

(1) \$50,000 in the case of a respondent that has fewer than 101 employees;

(2) \$100,000 in the case of a respondent that has more than 100 and fewer than 201 employees;

(3) \$200,000 in the case of a respondent that has more than 200 and fewer than 501 employees; and

(4) \$300,000 in the case of a respondent that has more than 500 employees.

(e) For the purposes of Subsection (d), in determining the number of employees of a respondent, the requisite number of employees must be employed by the respondent for each of 20 or more calendar weeks in the current or preceding calendar year.

Sec. 431.167. ATTORNEY'S FEES; COSTS. (a) In a proceeding under this subchapter, a court may allow the prevailing party, other than the commission, a reasonable attorney's fee as part of the costs.

(b) The state, a state agency, or a political subdivision is liable for costs, including attorney's fees, to the same extent as a private person.

(c) In awarding costs and attorney's fees in an action or a proceeding under this subchapter, the court, in its discretion, may include reasonable expert fees.

Sec. 431.168. COMPELLED COMPLIANCE. If an employer fails to comply with a court order issued under this subchapter, a party to the action or the commission, on the written request of a person aggrieved by the failure, may commence proceedings to compel compliance with the order.

Sec. 431.169. TRIAL DE NOVO. (a) A judicial proceeding under this subchapter is by trial de novo.

(b) A commission finding, recommendation, determination, or other action is not binding on a court.

SECTION 4. Subchapter D, Chapter 504, Transportation Code, is amended by adding Section 504.317 to read as follows:

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

SECTION 5. The changes in law made by this Act apply only to a violation of Section 431.006, Government Code, as amended by this Act, that is based on conduct occurring on or after the effective date of this Act. A violation of Section 431.006, Government Code, that is based on conduct occurring before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 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, 2011.

Representative Flynn moved to adopt the conference committee report on **HB 1178**.

The motion to adopt the conference committee report on **HB 1178** prevailed by (Record 1655): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; 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; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C); Harper-Brown.

Absent — Eiland; Hochberg.

#### STATEMENT OF VOTE

When Record No. 1655 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eiland

#### 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).

#### HB 2490 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Solomons submitted the following conference committee report on **HB 2490**:

Austin, Texas, May 27, 2011

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 2490** 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  
Eltife

Solomons  
Aliseda

Lucio  
 Van de Putte  
 Zaffirini  
 On the part of the senate

Chisum  
 Legler  
 W. Smith  
 On the part of the house

**HB 2490**, A bill to be entitled An Act relating to the regulation of crafted precious metal dealers; providing criminal and administrative penalties.

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

SECTION 1. Section 1956.051, Occupations Code, is amended to read as follows:

Sec. 1956.051. DEFINITIONS. In this subchapter:

(1) "Commission" means the Finance Commission of Texas.  
 (2) "Commissioner" means the consumer credit commissioner.  
 (3) "Crafted precious metal" means jewelry, silverware, an art object, or another object, made wholly or partly from precious metal, other than a coin, a bar, a [or] commemorative medallion, or scrap or a broken item selling at five percent or more than the scrap value of the item [made in whole or in part from precious metal].

(4) ~~(2)~~ "Dealer" means a person registered to engage [who engages] in the business of purchasing and selling crafted precious metal, including purchases or sales made through the mail.

(5) ~~(3)~~ "Department" means the Texas Department of Public Safety.

(6) ~~(4)~~ "Precious metal" means gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or an alloy of those metals.

SECTION 2. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Section 1956.0511 to read as follows:

Sec. 1956.0511. ADMINISTRATION BY COMMISSION. (a) Notwithstanding any other provision of this chapter, the commission shall administer and enforce this subchapter, unless the context clearly requires another state agency to perform a specific duty.

(b) To the extent of any conflict between this subchapter and other provisions of this chapter, this subchapter prevails.

SECTION 3. Section 1956.060, Occupations Code, is amended to read as follows:

Sec. 1956.060. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED BY PERSON LICENSED UNDER TEXAS PAWNSHOP ACT. This subchapter does not apply to crafted precious metal acquired by:

(1) a person licensed under Chapter 371, Finance Code; or  
 (2) an entity affiliated with a person licensed under Chapter 371, Finance Code, if the entity's recordkeeping practices satisfy the requirements of that chapter.

SECTION 4. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Sections 1956.0611, 1956.0612, 1956.0613, 1956.0614, and 1956.0615 to read as follows:

Sec. 1956.0611. RULEMAKING. The commission may adopt rules necessary to implement and enforce this subchapter.

Sec. 1956.0612. REGISTRATION AS DEALER. (a) A person may not engage in the business of purchasing and selling crafted precious metal unless the person is registered with the commissioner as a dealer under this section.

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

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

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

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

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

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

(f) The commissioner may prescribe the registration form.

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

Sec. 1956.0613. INVESTIGATION BY COMMISSIONER. The commissioner shall:

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

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

Sec. 1956.0614. REVOCATION OF REGISTRATION. (a) The commissioner may revoke the registration of a dealer if the commissioner concludes that the dealer has violated this chapter. The commissioner shall recite the basis of the decision in an order revoking the registration.

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

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

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

SECTION 5. Section 1956.063(c), Occupations Code, is amended to read as follows:

(c) For each transaction regulated by this subchapter, the ~~[The]~~ dealer shall submit a ~~[the]~~ report on a preprinted and prenumbered form prescribed by the commissioner ~~[district attorney or person performing the duties of district attorney of the county in which the transaction occurs]~~. The form must include the following:

- (1) the date of the transaction;
- (2) a description of the crafted precious metal purchased by the dealer;
- (3) the name and physical address of the dealer; and
- (4) the name, physical description, and physical address of the seller or transferor.

SECTION 6. Section 1956.064, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A peace officer who has reasonable suspicion to believe that an item of crafted precious metal in the possession of a dealer is stolen may place the item on hold for a period not to exceed 60 days by issuing to the dealer a written notice that:

- (1) specifically identifies the item alleged to be stolen and subject to the hold; and
- (2) informs the dealer of the requirements of Subsection (c).

(c) On receiving the notice, the dealer may not melt, deface, alter, or dispose of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order. ~~[A dealer who retains information under Subsection (a)(2) shall make that information available for inspection by any peace officer.]~~

SECTION 7. Section 1956.067(a), Occupations Code, is amended to read as follows:

(a) A dealer who conducts business at a temporary location for a period of less than one year ~~[90 days]~~ may not engage in the business of buying precious metal or used items made of precious metal unless, within a 12-month period at least 30 days before the date on which each purchase is made, the dealer ~~[person]~~ has filed:

- (1) a registration statement with the department; ~~[and]~~
- (2) a copy of the registration statement and a copy of the dealer's certificate of registration issued under this subchapter with the local law enforcement agency of:
  - (A) the municipality in which the temporary location is located; or
  - (B) if the temporary location is not located in a municipality, the county in which the temporary location is located; and
- (3) a copy of the dealer's certificate of registration issued under this subchapter with the county and, if applicable, the municipality in which the temporary location is located.

SECTION 8. Section 1956.069(a), Occupations Code, is amended to read as follows:

- (a) A person ~~[dealer]~~ commits an offense if the person ~~[dealer]~~:
- (1) fails to make or permit inspection of a report as required by Section 1956.062 or 1956.063;

(2) violates [~~disposes of crafted precious metal or fails to make a record available for inspection by a peace officer as required by~~] Section 1956.0612 or 1956.064;

(3) fails to obtain or retain a statement as required by Section 1956.066;

(4) fails to file a registration statement as required by Section 1956.067;

or

(5) purchases an object in violation of Section 1956.068.

SECTION 9. 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 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 10. Not later than December 1, 2011, the Finance Commission of Texas shall adopt rules to implement Subchapter B, Chapter 1956, Occupations Code, as amended by this Act.

SECTION 11. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Section 1956.0612, Occupations Code, as added by this Act, and Sections 1956.067(a) and 1956.069(a), Occupations Code, as amended by this Act, take effect January 1, 2012.

#### **HB 2490 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE DESHOTEL: Mr. Solomons, one of the things we were trying to accomplish, I think, with this bill, was protection of consumers from fly-by-night operations that go to hotel rooms and say they're buying precious metals, is that correct?

REPRESENTATIVE SOLOMONS: Yes, sir. It's very much a law enforcement type of issue with that—fly-by-night operators.

DESHOTEL: One of the things, we're giving the authority to—rulemaking authority—to the Finance Commission, and we'd like to see in those rules a requirement that a receipt be maintained that includes all the pertinent information of the transaction, is that correct?

SOLOMONS: Yes, sir. We're trying to make sure there are copies of receipts and there's a prescribed form for that.

DESHOTEL: And that those receipts be maintained by the vendor as well as given to the consumer?

SOLOMONS: Right—well, it will be given to the—they'll keep one, they'll give one to the finance—to the OCCC, and then basically what happens is a person would have more of an opportunity to get a receipt, and in that rulemaking authority they may require a receipt as well. And that's certainly the intent, to make sure everybody has a copy of what transacted.

(Phillips in the chair)

### REMARKS ORDERED PRINTED

Representative Deshotel moved to print remarks between Representative Solomons and Representative Deshotel.

The motion prevailed.

Representative Solomons moved to adopt the conference committee report on **HB 2490**.

The motion to adopt the conference committee report on **HB 2490** prevailed by (Record 1656): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; 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; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent — Aliseda; Davis, J.

### STATEMENTS OF VOTE

When Record No. 1656 was taken, my vote failed to register. I would have voted yes.

Aliseda

I was shown voting yes on Record No. 1656. I intended to vote no.

Creighton

### HB 1951 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative L. Taylor submitted the following conference committee report on **HB 1951**:

Austin, Texas, May 26, 2011

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 1951** 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	L. Taylor
Nelson	Smithee
Williams	Bonnen
Uresti	Vo
Huffman	Hancock
On the part of the senate	On the part of the house

**HB 1951**, A bill to be entitled An Act relating to the continuation and operation of the Texas Department of Insurance and the operation of certain insurance programs; imposing administrative penalties.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.001. Section 31.002, Insurance Code, is amended to read as follows:

Sec. 31.002. DUTIES OF DEPARTMENT. In addition to the other duties required of the Texas Department of Insurance, the department shall:

- (1) regulate the business of insurance in this state;
- (2) administer the workers' compensation system of this state as provided by Title 5, Labor Code; ~~and~~
- (3) ensure that this code and other laws regarding insurance and insurance companies are executed;
- (4) protect and ensure the fair treatment of consumers; and
- (5) ensure fair competition in the insurance industry in order to foster a competitive market.

SECTION 1.002. 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, 2023 ~~[2011]~~.

SECTION 1.003. Subchapter B, Chapter 36, Insurance Code, is amended by adding Section 36.110 to read as follows:

Sec. 36.110. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commissioner shall develop and implement a policy to encourage the use of:

- (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department 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 department's jurisdiction.

(b) The department'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 commissioner shall:

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

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

## ARTICLE 2. CERTAIN ADVISORY BOARDS, COMMITTEES, AND COUNCILS AND RELATED TECHNICAL CORRECTIONS

SECTION 2.001. Chapter 32, Insurance Code, is amended by adding Subchapter E to read as follows:

### SUBCHAPTER E. RULES REGARDING USE OF ADVISORY COMMITTEES

Sec. 32.151. RULEMAKING AUTHORITY. (a) The commissioner shall adopt rules, in compliance with Section 39.003 of this code and Chapter 2110, Government Code, regarding the purpose, structure, and use of advisory committees by the commissioner, the state fire marshal, or department staff, including rules governing an advisory committee's:

(1) purpose, role, responsibility, and goals;

(2) size and quorum requirements;

(3) qualifications for membership, including experience requirements and geographic representation;

(4) appointment procedures;

(5) terms of service;

(6) training requirements; and

(7) duration.

(b) An advisory committee must be structured and used to advise the commissioner, the state fire marshal, or department staff. An advisory committee may not be responsible for rulemaking or policymaking.

Sec. 32.152. PERIODIC EVALUATION. The commissioner shall by rule establish a process by which the department shall periodically evaluate an advisory committee to ensure its continued necessity. The department may retain or develop committees as appropriate to meet changing needs.

Sec. 32.153. COMPLIANCE WITH OPEN MEETINGS ACT. A department advisory committee must comply with Chapter 551, Government Code.

SECTION 2.002. Section 843.441, Insurance Code, is transferred to Subchapter L, Chapter 843, Insurance Code, redesignated as Section 843.410, Insurance Code, and amended to read as follows:

Sec. 843.410 [843.441]. ASSESSMENTS. (a) To provide funds for the administrative expenses of the commissioner regarding rehabilitation, liquidation, supervision, conservatorship, or seizure [conservation] of a [an impaired] health maintenance organization in this state that is placed under supervision or in

conservatorship under Chapter 441 or against which a delinquency proceeding is commenced under Chapter 443 and that is found by the commissioner to have insufficient funds to pay the total amount of health care claims and the administrative~~[, including]~~ expenses incurred by the commissioner regarding the rehabilitation, liquidation, supervision, conservatorship, or seizure, the commissioner ~~[acting as receiver or by a special deputy receiver, the committee, at the commissioner's direction,]~~ shall assess each health maintenance organization in the proportion that the gross premiums of the health maintenance organization that were written in this state during the preceding calendar year bear to the aggregate gross premiums that were written in this state by all health maintenance organizations, as found ~~[provided to the committee by the commissioner]~~ after review of annual statements and other reports the commissioner considers necessary.

(b) ~~[(e)]~~ The commissioner may abate or defer an assessment in whole or in part if, in the opinion of the commissioner, payment of the assessment would endanger the ability of a health maintenance organization to fulfill its contractual obligations. If an assessment is abated or deferred in whole or in part, the amount of the abatement or deferral may be assessed against the remaining health maintenance organizations in a manner consistent with the calculations made by the commissioner under Subsection (a) ~~[basis for assessments provided by the approved plan of operation].~~

(c) ~~[(d)]~~ The total of all assessments on a health maintenance organization may not exceed one-fourth of one percent of the health maintenance organization's gross premiums in any one calendar year.

(d) ~~[(e)]~~ Notwithstanding any other provision of this subchapter, funds derived from an assessment made under this section may not be used for more than 180 consecutive days for the expenses of administering the affairs of a ~~[an impaired]~~ health maintenance organization the surplus of which is impaired and that is ~~[while]~~ in supervision~~[, rehabilitation,]~~ or conservatorship ~~[conservation for more than 150 days]~~. The commissioner ~~[committee]~~ may extend the period during which the commissioner ~~[it]~~ makes assessments for the administrative expenses ~~[of an impaired health maintenance organization as it considers appropriate].~~

SECTION 2.003. Section 1660.004, Insurance Code, is amended to read as follows:

Sec. 1660.004. GENERAL RULEMAKING. The commissioner may adopt rules as necessary to implement this chapter~~[, including rules requiring the implementation and provision of the technology recommended by the advisory committee].~~

SECTION 2.004. Section 1660.102(b), Insurance Code, is amended to read as follows:

(b) The commissioner may consider ~~[the]~~ recommendations ~~[of the advisory committee]~~ or any other information provided in response to a department-issued request for information relating to electronic data exchange, including identification card programs, before adopting rules regarding:

- (1) information to be included on the identification cards;

(2) technology to be used to implement the identification card pilot program; and

(3) confidentiality and accuracy of the information required to be included on the identification cards.

SECTION 2.005. Section 4001.009(a), Insurance Code, is amended to read as follows:

(a) As referenced in Section 4001.003(9), a reference to an agent in the following laws includes a subagent without regard to whether a subagent is specifically mentioned:

(1) Chapters 281, 402, 421-423, 441, 444, 461-463, [~~523,~~] 541-556, 558, 559, [~~702,~~] 703, 705, 821, 823-825, 827, 828, 844, 963, 1108, 1205-1208 [~~1205-1209,~~] 1211, 1213, 1214 [~~1211-1214,~~] 1352, 1353, 1357, 1358, 1360-1363, 1369, 1453-1455, 1503, 1550, 1801, 1803, 2151-2154, 2201-2203, 2205-2213, 3501, 3502, 4007, 4102, and 4201-4203;

(2) Chapter 403, excluding Section 403.002;

(3) Subchapter A, Chapter 491;

(4) Subchapter C, Chapter 521;

(5) Subchapter A, Chapter 557;

(6) Subchapter B, Chapter 805;

(7) Subchapters D, E, and F, Chapter 982;

(8) Subchapter D, Chapter 1103;

(9) Subchapters B, C, D, and E, Chapter 1204, excluding Sections 1204.153 and 1204.154;

(10) Subchapter B, Chapter 1366;

(11) Subchapters B, C, and D, Chapter 1367, excluding Section 1367.053(c);

(12) Subchapters A, C, D, E, F, H, and I, Chapter 1451;

(13) Subchapter B, Chapter 1452;

(14) Sections 551.004, 841.303, 982.001, 982.002, 982.004, 982.052, 982.102, 982.103, 982.104, 982.106, 982.107, 982.108, 982.110, 982.111, 982.112, and 1802.001; and

(15) Chapter 107, Occupations Code.

SECTION 2.006. Section 4102.005, Insurance Code, is amended to read as follows:

Sec. 4102.005. CODE OF ETHICS. The commissioner[~~, with guidance from the public insurance adjusters examination advisory committee,~~] by rule shall adopt:

(1) a code of ethics for public insurance adjusters that fosters the education of public insurance adjusters concerning the ethical, legal, and business principles that should govern their conduct;

(2) recommendations regarding the solicitation of the adjustment of losses by public insurance adjusters; and

(3) any other principles of conduct or procedures that the commissioner considers necessary and reasonable.

SECTION 2.007. Section 2154.052(a), Occupations Code, is amended to read as follows:

(a) The commissioner:

(1) shall administer this chapter through the state fire marshal; and

(2) may issue rules to administer this chapter [~~in compliance with Section 2154.054~~].

SECTION 2.008. The following laws are repealed:

(1) Article 3.70-3D(d), Insurance Code, as effective on appropriation in accordance with Section 5, Chapter 1457 (H.B. 3021), Acts of the 76th Legislature, Regular Session, 1999;

(2) Chapter 523, Insurance Code;

(3) Section 524.061, Insurance Code;

(4) the heading to Subchapter M, Chapter 843, Insurance Code;

(5) Sections 843.435, 843.436, 843.437, 843.438, 843.439, and 843.440, Insurance Code;

(6) Chapter 1212, Insurance Code;

(7) Section 1660.002(2), Insurance Code;

(8) Subchapter B, Chapter 1660, Insurance Code;

(9) Section 1660.101(c), Insurance Code;

(10) Sections 4002.004, 4004.002, 4101.006, and 4102.059, Insurance Code;

(11) Sections 4201.003(c) and (d), Insurance Code;

(12) Subchapter C, Chapter 6001, Insurance Code;

(13) Subchapter C, Chapter 6002, Insurance Code;

(14) Subchapter C, Chapter 6003, Insurance Code;

(15) Section 2154.054, Occupations Code; and

(16) Section 2154.055(c), Occupations Code.

SECTION 2.009. (a) The following boards, committees, councils, and task forces are abolished on the effective date of this Act:

(1) the consumer assistance program for health maintenance organizations advisory committee;

(2) the executive committee of the market assistance program for residential property insurance;

(3) the TexLink to Health Coverage Program task force;

(4) the health maintenance organization solvency surveillance committee;

(5) the technical advisory committee on claims processing;

(6) the technical advisory committee on electronic data exchange;

(7) the examination of license applicants advisory board;

(8) the advisory council on continuing education for insurance agents;

(9) the insurance adjusters examination advisory board;

(10) the public insurance adjusters examination advisory committee;

(11) the utilization review agents advisory committee;

(12) the fire extinguisher advisory council;

(13) the fire detection and alarm devices advisory council;

(14) the fire protection advisory council; and

(15) the fireworks advisory council.

(b) All powers, duties, obligations, rights, contracts, funds, records, and real or personal property of a board, committee, council, or task force listed under Subsection (a) of this section shall be transferred to the Texas Department of Insurance not later than February 28, 2012.

SECTION 2.010. The changes in law made by this Act by repealing Sections 523.003 and 843.439, Insurance Code, apply only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues 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.

#### ARTICLE 3. RATE REGULATION

SECTION 3.001. Subchapter F, Chapter 843, Insurance Code, is amended by adding Section 843.2071 to read as follows:

Sec. 843.2071. NOTICE OF INCREASE IN CHARGE FOR COVERAGE.

(a) Not less than 60 days before the date on which an increase in a charge for coverage under this chapter takes effect, a health maintenance organization shall:

(1) give to each enrollee under an individual evidence of coverage written notice of the effective date of the increase; and

(2) provide the enrollee a table that clearly lists:

(A) the actual dollar amount of the charge for coverage on the date of the notice;

(B) the actual dollar amount of the charge for coverage after the charge increase; and

(C) the percentage change between the amounts described by Paragraphs (A) and (B).

(b) The notice required by this section must be based on coverage in effect on the date of the notice.

(c) This section may not be construed to prevent a health maintenance organization, at the request of an enrollee, from negotiating a change in benefits or rates after delivery of the notice required by this section.

(d) A health maintenance organization may not require an enrollee entitled to notice under this section to respond to the health maintenance organization to renew the coverage or take other action relating to the renewal or extension of the coverage before the 45th day after the date the notice described by Subsection (a) is given.

(e) The notice required by this section must include:

(1) contact information for the department, including information concerning how to file a complaint with the department;

(2) contact information for the Texas Consumer Health Assistance Program, including information concerning how to request from the program consumer protection information or assistance with filing a complaint; and

(3) the addresses of Internet websites that provide consumer information related to rate increase justifications, including the websites of the department and the United States Department of Health and Human Services.

SECTION 3.002. Subchapter C, Chapter 1201, Insurance Code, is amended by adding Section 1201.109 to read as follows:

Sec. 1201.109. NOTICE OF RATE INCREASE. (a) Not less than 60 days before the date on which a premium rate increase takes effect on an individual accident and health insurance policy delivered or issued for delivery in this state by an insurer, the insurer shall:

(1) give written notice to the insured of the effective date of the increase; and

(2) provide the insured a table that clearly lists:

(A) the actual dollar amount of the premium on the date of the notice;

(B) the actual dollar amount of the premium after the premium rate increase; and

(C) the percentage change between the amounts described by Paragraphs (A) and (B).

(b) The notice required by this section must be based on coverage in effect on the date of the notice.

(c) This section may not be construed to prevent an insurer, at the request of an insured, from negotiating a change in benefits or rates after delivery of the notice required by this section.

(d) An insurer may not require an insured entitled to notice under this section to respond to the insurer to renew the policy or take other action relating to the renewal or extension of the policy before the 45th day after the date the notice described by Subsection (a) is given.

(e) The notice required by this section must include:

(1) contact information for the department, including information concerning how to file a complaint with the department;

(2) contact information for the Texas Consumer Health Assistance Program, including information concerning how to request from the program consumer protection information or assistance with filing a complaint; and

(3) the addresses of Internet websites that provide consumer information related to rate increase justifications, including the websites of the department and the United States Department of Health and Human Services.

SECTION 3.003. Subchapter E, Chapter 1501, Insurance Code, is amended by adding Section 1501.216 to read as follows:

Sec. 1501.216. PREMIUM RATES: NOTICE OF INCREASE. (a) Not less than 60 days before the date on which a premium rate increase takes effect on a small employer health benefit plan delivered or issued for delivery in this state by an insurer, the insurer shall:

(1) give written notice to the small employer of the effective date of the increase; and

(2) provide the small employer a table that clearly lists:

(A) the actual dollar amount of the premium on the date of the notice;

(B) the actual dollar amount of the premium after the premium rate increase; and

(C) the percentage change between the amounts described by Paragraphs (A) and (B).

(b) The notice required by this section must be based on coverage in effect on the date of the notice.

(c) This section may not be construed to prevent an insurer, at the request of a small employer, from negotiating a change in benefits or rates after delivery of the notice required by this section.

(d) An insurer may not require a small employer entitled to notice under this section to respond to the insurer to renew the policy or take other action relating to the renewal or extension of the policy before the 45th day after the date the notice described by Subsection (a) is given.

(e) The notice required by this section must include:

(1) contact information for the department, including information concerning how to file a complaint with the department;

(2) contact information for the Texas Consumer Health Assistance Program, including information concerning how to request from the program consumer protection information or assistance with filing a complaint; and

(3) the addresses of Internet websites that provide consumer information related to rate increase justifications, including the websites of the department and the United States Department of Health and Human Services.

SECTION 3.004. Section 2251.002(8), Insurance Code, is amended to read as follows:

(8) "Supporting information" means:

(A) the experience and judgment of the filer and the experience or information of other insurers or advisory organizations on which the filer relied;

(B) the interpretation of any other information on which the filer relied;

(C) a description of methods used in making a rate; and

(D) any other information the department receives from a filer as a response to a request under Section 38.001 ~~[requires to be filed]~~.

SECTION 3.005. Section 2251.101, Insurance Code, is amended to read as follows:

Sec. 2251.101. RATE FILINGS AND SUPPORTING INFORMATION.

(a) Except as provided by Subchapter D, for risks written in this state, each insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner. An insurer may use a rate filed under this subchapter on and after the date the rate is filed.

(b) The commissioner by rule shall:

(1) determine the information required to be included in the filing, including:

(A) ~~[(+)]~~ categories of supporting information and supplementary rating information;

(B) ~~[(=)]~~ statistics or other information to support the rates to be used by the insurer, including information necessary to evidence that the computation of the rate does not include disallowed expenses; and

(C) [(3)] information concerning policy fees, service fees, and other fees that are charged or collected by the insurer under Section 550.001 or 4005.003; and

(2) prescribe the process through which the department requests supplementary rating information and supporting information under this section, including:

(A) the number of times the department may make a request for information; and

(B) the types of information the department may request when reviewing a rate filing.

SECTION 3.006. Section 2251.103, Insurance Code, is amended to read as follows:

Sec. 2251.103. COMMISSIONER ACTION CONCERNING ~~[DISAPPROVAL OF RATE IN]~~ RATE FILING NOT YET IN EFFECT; HEARING AND ANALYSIS. (a) Not later than the earlier of the date the rate takes effect or the 30th day after the date a rate is filed with the department under Section 2251.101, the [The] commissioner shall disapprove the [a] rate if the commissioner determines that the rate [filing made under this chapter] does not comply with the requirements of this chapter [meet the standards established under Subchapter B].

(b) Except as provided by Subsection (c), if a rate has not been disapproved by the commissioner before the expiration of the 30-day period described by Subsection (a), the rate is not considered disapproved under this section.

(c) For good cause, the commissioner may, on the expiration of the 30-day period described by Subsection (a), extend the period for disapproval of a rate for one additional 30-day period. The commissioner and the insurer may not by agreement extend the 30-day period described by Subsection (a) or this subsection.

(d) If the commissioner disapproves a rate under this section [filing], the commissioner shall issue an order specifying in what respects the rate [filing] fails to meet the requirements of this chapter.

(e) An insurer that files a rate that is disapproved under this section [(e) The filer] is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order disapproving the rate [filing] takes effect.

(f) The department shall track, compile, and routinely analyze the factors that contribute to the disapproval of rates under this section.

SECTION 3.007. Subchapter C, Chapter 2251, Insurance Code, is amended by adding Section 2251.1031 to read as follows:

Sec. 2251.1031. REQUESTS FOR ADDITIONAL INFORMATION. (a) If the department determines that the information filed by an insurer under this subchapter or Subchapter D is incomplete or otherwise deficient, the department may request additional information from the insurer.

(b) If the department requests additional information from the insurer during the 30-day period described by Section 2251.103(a) or 2251.153(a) or under a second 30-day period described by Section 2251.103(c) or 2251.153(c),

as applicable, the time between the date the department submits the request to the insurer and the date the department receives the information requested is not included in the computation of the first 30-day period or the second 30-day period, as applicable.

(c) For purposes of this section, the date of the department's submission of a request for additional information is the earlier of:

(1) the date of the department's electronic mailing or documented telephone call relating to the request for additional information; or

(2) the postmarked date on the department's letter relating to the request for additional information.

(d) The department shall track, compile, and routinely analyze the volume and content of requests for additional information made under this section to ensure that all requests for additional information are fair and reasonable.

SECTION 3.008. The heading to Section 2251.104, Insurance Code, is amended to read as follows:

Sec. 2251.104. COMMISSIONER DISAPPROVAL OF RATE IN EFFECT; HEARING.

SECTION 3.009. Section 2251.107, Insurance Code, is amended to read as follows:

Sec. 2251.107. PUBLIC ~~INSPECTION OF~~ INFORMATION. (a) Each filing made, and any supporting information filed, under this chapter is public information subject to Chapter 552, Government Code, including any applicable exception from required disclosure under that chapter ~~[open to public inspection as of the date of the filing].~~

(b) Each year the department shall make available to the public information concerning the department's general process and methodology for rate review under this chapter, including factors that contribute to the disapproval of a rate. Information provided under this subsection must be general in nature and may not reveal proprietary or trade secret information of any insurer.

SECTION 3.010. Section 2251.151, Insurance Code, is amended by adding Subsections (c-1) and (f) and amending Subsection (e) to read as follows:

(c-1) If the commissioner requires an insurer to file the insurer's rates under this section, the commissioner shall periodically assess whether the conditions described by Subsection (a) continue to exist. If the commissioner determines that the conditions no longer exist, the commissioner shall issue an order excusing the insurer from filing the insurer's rates under this section.

(e) If the commissioner requires an insurer to file the insurer's rates under this section, the commissioner shall issue an order specifying the commissioner's reasons for requiring the rate filing and explaining any steps the insurer must take and any conditions the insurer must meet in order to be excused from filing the insurer's rates under this section. An affected insurer is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order is issued.

(f) The commissioner by rule shall define:

(1) the financial conditions and rating practices that may subject an insurer to this section under Subsection (a)(1); and

(2) the process by which the commissioner determines that a statewide insurance emergency exists under Subsection (a)(2).

SECTION 3.011. Section 2251.156, Insurance Code, is amended to read as follows:

Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER; HEARING. (a) If the commissioner disapproves a rate filing under Section 2251.153(a)(2), the commissioner shall issue an order disapproving the filing in accordance with Section 2251.103(d) [~~2251.103(b)~~].

(b) An insurer whose rate filing is disapproved is entitled to a hearing in accordance with Section 2251.103(e) [~~2251.103(e)~~].

(c) The department shall track precedents related to disapprovals of rates under this subchapter to ensure uniform application of rate standards by the department.

SECTION 3.012. Section 2254.003(a), Insurance Code, is amended to read as follows:

(a) This section applies to a rate for personal automobile insurance or residential property insurance filed on or after the effective date of Chapter 206, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 3.013. Section 2251.154, Insurance Code, is repealed.

SECTION 3.014. Sections 2251.002(8) and 2251.107, Insurance Code, as amended by this Act, apply only to a request to inspect information or to obtain public information made to the Texas Department of Insurance on or after the effective date of this Act. A request made before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 3.015. Section 2251.103, Insurance Code, as amended by this Act, and Section 2251.1031, Insurance Code, as added by this Act, apply only to a rate filing made on or after the effective date of this Act. A rate filing made before the effective date of this Act is governed by the law in effect at the time the filing was made, and that law is continued in effect for that purpose.

SECTION 3.016. Section 2251.151(c-1), Insurance Code, as added by this Act, applies to an insurer that is required to file the insurer's rates for approval under Section 2251.151, Insurance Code, on or after the effective date of this Act, regardless of when the order requiring the insurer to file the insurer's rates for approval under that section is first issued.

SECTION 3.017. Section 2251.151(e), Insurance Code, as amended by this Act, applies only to an order issued by the commissioner of insurance on or after the effective date of this Act. An order of the commissioner issued before the effective date of this Act is governed by the law in effect on the date the order was issued, and that law is continued in effect for that purpose.

#### ARTICLE 4. STATE FIRE MARSHAL'S OFFICE

SECTION 4.001. Section 417.008, Government Code, is amended by adding Subsection (f) to read as follows:

(f) The commissioner by rule shall prescribe a reasonable fee for an inspection performed by the state fire marshal that may be charged to a property owner or occupant who requests the inspection, as the commissioner considers

appropriate. In prescribing the fee, the commissioner shall consider the overall cost to the state fire marshal to perform the inspections, including the approximate amount of time the staff of the state fire marshal needs to perform an inspection, travel costs, and other expenses.

SECTION 4.002. Section 417.0081, Government Code, is amended to read as follows:

Sec. 417.0081. INSPECTION OF CERTAIN STATE-OWNED OR STATE-LEASED BUILDINGS. (a) The state fire marshal, at the commissioner's direction, shall periodically inspect public buildings under the charge and control of the Texas Facilities ~~[General Services]~~ Commission and buildings leased for the use of a state agency by the Texas Facilities Commission.

(b) For the purpose of determining a schedule for conducting inspections under this section, the commissioner by rule shall adopt guidelines for assigning potential fire safety risk to state-owned and state-leased buildings. Rules adopted under this subsection must provide for the inspection of each state-owned and state-leased building to which this section applies, regardless of how low the potential fire safety risk of the building may be.

(c) On or before January 1 of each year, the state fire marshal shall report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature regarding the state fire marshal's findings in conducting inspections under this section.

SECTION 4.003. Section 417.0082, Government Code, is amended to read as follows:

Sec. 417.0082. PROTECTION OF CERTAIN STATE-OWNED OR STATE-LEASED BUILDINGS AGAINST FIRE HAZARDS. (a) The state fire marshal, under the direction of the commissioner, shall take any action necessary to protect a public building under the charge and control of the Texas Facilities ~~[Building and Procurement]~~ Commission, and the building's occupants, and the occupants of a building leased for the use of a state agency by the Texas Facilities Commission, against an existing or threatened fire hazard. The state fire marshal and the Texas Facilities ~~[Building and Procurement]~~ Commission shall include the State Office of Risk Management in all communication concerning fire hazards.

(b) The commissioner, the Texas Facilities ~~[Building and Procurement]~~ Commission, and the risk management board shall make and each adopt by rule a memorandum of understanding that coordinates the agency's duties under this section.

SECTION 4.004. Section 417.010, Government Code, is amended to read as follows:

Sec. 417.010. DISCIPLINARY AND ENFORCEMENT ACTIONS; ADMINISTRATIVE PENALTIES ~~[ALTERNATE REMEDIES]~~. (a) This section applies to each person and firm licensed, registered, or otherwise regulated by the department through the state fire marshal, including:

- (1) a person regulated under Title 20, Insurance Code; and
- (2) a person licensed under Chapter 2154, Occupations Code.

(b) The commissioner by rule shall delegate to the state fire marshal the authority to take disciplinary and enforcement actions, including the imposition of administrative penalties in accordance with this section on a person regulated under a law listed under Subsection (a) who violates that law or a rule or order adopted under that law. In the rules adopted under this subsection, the commissioner shall:

(1) specify which types of disciplinary and enforcement actions are delegated to the state fire marshal; and

(2) outline the process through which the state fire marshal may, subject to Subsection (e), impose administrative penalties or take other disciplinary and enforcement actions.

(c) The commissioner by rule shall adopt a schedule of administrative penalties for violations subject to a penalty under this section to ensure that the amount of an administrative penalty imposed is appropriate to the violation. The department shall provide the administrative penalty schedule to the public on request. The amount of an administrative penalty imposed under this section must be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of the violation;

and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to the public interest or public confidence caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation;

(6) whether the violation was intentional; and

(7) any other matter that justice may require.

(d) In ~~[The state fire marshal, in]~~ the enforcement of a law that is enforced by or through the state fire marshal, the state fire marshal may, in lieu of cancelling, revoking, or suspending a license or certificate of registration, impose on the holder of the license or certificate of registration an order directing the holder to do one or more of the following:

(1) cease and desist from a specified activity;

(2) pay an administrative penalty imposed under this section ~~[remit to the commissioner within a specified time a monetary forfeiture not to exceed \$10,000 for each violation of an applicable law or rule]; or [and]~~

(3) make restitution to a person harmed by the holder's violation of an applicable law or rule.

(e) The state fire marshal shall impose an administrative penalty under this section in the manner prescribed for imposition of an administrative penalty under Subchapter B, Chapter 84, Insurance Code. The state fire marshal may impose an administrative penalty under this section without referring the violation to the department for commissioner action.

(f) An affected person may dispute the imposition of the penalty or the amount of the penalty imposed in the manner prescribed by Subchapter C, Chapter 84, Insurance Code. Failure to pay an administrative penalty imposed under this section is subject to enforcement by the department.

#### ARTICLE 5. TITLE INSURANCE

SECTION 5.001. Section 2703.153(c), Insurance Code, is amended to read as follows:

(c) Not less frequently than once every five years, the commissioner shall evaluate the information required under this section to determine whether the department needs additional or different information or no longer needs certain information to promulgate rates. If the department requires a title insurance company or title insurance agent to include new or different information in the statistical report, that information may be considered by the commissioner in fixing premium rates if the information collected is reasonably credible for the purposes for which the information is to be used.

#### ARTICLE 6. ELECTRONIC TRANSACTIONS

SECTION 6.001. Subtitle A, Title 2, Insurance Code, is amended by adding Chapter 35 to read as follows:

#### CHAPTER 35. ELECTRONIC TRANSACTIONS

Sec. 35.001. DEFINITIONS. In this chapter:

(1) "Conduct business" includes engaging in or transacting any business in which a regulated entity is authorized to engage or is authorized to transact under the law of this state.

(2) "Regulated entity" means each insurer or other organization regulated by the department, including:

(A) a domestic or foreign, stock or mutual, life, health, or accident insurance company;

(B) a domestic or foreign, stock or mutual, fire or casualty insurance company;

(C) a Mexican casualty company;

(D) a domestic or foreign Lloyd's plan;

(E) a domestic or foreign reciprocal or interinsurance exchange;

(F) a domestic or foreign fraternal benefit society;

(G) a domestic or foreign title insurance company;

(H) an attorney's title insurance company;

(I) a stipulated premium company;

(J) a nonprofit legal service corporation;

(K) a health maintenance organization;

(L) a statewide mutual assessment company;

(M) a local mutual aid association;

(N) a local mutual burial association;

(O) an association exempt under Section 887.102;

(P) a nonprofit hospital, medical, or dental service corporation, including a company subject to Chapter 842;

(Q) a county mutual insurance company; and

(R) a farm mutual insurance company.

Sec. 35.002. CONSTRUCTION WITH OTHER LAW.

(a) Notwithstanding any other provision of this code, a regulated entity may conduct business electronically in accordance with this chapter and the rules adopted under Section 35.004.

(b) To the extent of any conflict between another provision of this code and a provision of this chapter, the provision of this chapter controls.

Sec. 35.003. ELECTRONIC TRANSACTIONS AUTHORIZED. A regulated entity may conduct business electronically to the same extent that the entity is authorized to conduct business otherwise if before the conduct of business each party to the business agrees to conduct the business electronically.

Sec. 35.004. RULES. (a) The commissioner shall adopt rules necessary to implement and enforce this chapter.

(b) The rules adopted by the commissioner under this section must include rules that establish minimum standards with which a regulated entity must comply in the entity's electronic conduct of business with other regulated entities and consumers.

SECTION 6.002. Chapter 35, Insurance Code, as added by this Act, applies only to business conducted on or after the effective date of this Act. Business conducted before the effective date of this Act is governed by the law in effect on the date the business was conducted, and that law is continued in effect for that purpose.

## ARTICLE 7. DATA COLLECTION

SECTION 7.001. Chapter 38, Insurance Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. DATA COLLECTION RELATING TO CERTAIN PERSONAL LINES OF INSURANCE

Sec. 38.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to an insurer who writes personal automobile insurance or residential property insurance in this state.

Sec. 38.402. FILING OF CERTAIN CLAIMS INFORMATION. (a) The commissioner shall require each insurer described by Section 38.401 to file with the commissioner aggregate personal automobile insurance and residential property insurance claims information for the period covered by the filing, including the number of claims:

- (1) filed during the reporting period;
- (2) pending on the last day of the reporting period, including pending litigation;
- (3) closed with payment during the reporting period;
- (4) closed without payment during the reporting period; and
- (5) carrying over from the reporting period immediately preceding the current reporting period.

(b) An insurer described by Section 38.401 must file the information described by Subsection (a) on an annual basis. The information filed must be broken down by quarter.

Sec. 38.403. PUBLIC INFORMATION. (a) The department shall post the data contained in claims information filings under Section 38.402 on the department's Internet website. The commissioner by rule may establish a procedure for posting data under this subsection that includes a description of the data that must be posted and the manner in which the data must be posted.

(b) Information provided under this section must be aggregate data by line of insurance for each insurer and may not reveal proprietary or trade secret information of any insurer.

Sec. 38.404. RULES. The commissioner may adopt rules necessary to implement this subchapter.

ARTICLE 8. STUDY ON RATE FILING AND APPROVAL  
REQUIREMENTS FOR CERTAIN INSURERS WRITING IN  
UNDERSERVED AREAS; UNDERSERVED AREA DESIGNATION

SECTION 8.001. Section 2004.002, Insurance Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) In determining which areas to designate as underserved, the commissioner shall consider:

(1) whether residential property insurance is not reasonably available to a substantial number of owners of insurable property in the area; ~~and~~

(2) whether access to the full range of coverages and policy forms for residential property insurance does not reasonably exist; and

(3) any other relevant factor as determined by the commissioner.

(c) The commissioner shall determine which areas to designate as underserved under this section not less than once every six years.

(d) The commissioner shall conduct a study concerning the accuracy of current designations of underserved areas under this section for the purpose of increasing and improving access to insurance in those areas not less than once every six years.

SECTION 8.002. Subchapter F, Chapter 2251, Insurance Code, is amended by adding Section 2251.253 to read as follows:

Sec. 2251.253. REPORT. (a) The commissioner shall conduct a study concerning the impact of increasing the percentage of the total amount of premiums collected by insurers for residential property insurance under Section 2251.252.

(b) The commissioner shall report the results of the study in the biennial report required under Section 32.022.

(c) This section expires September 1, 2013.

ARTICLE 9. INDIVIDUAL HEALTH COVERAGE FOR CHILDREN

SECTION 9.001. Section 1502.002, Insurance Code, is amended to read as follows:

Sec. 1502.002. RULES. (a) The commissioner may adopt rules to implement this chapter, including rules necessary to:

(1) increase the availability of coverage to children younger than 19 years of age;

(2) establish an open enrollment period; and

(3) establish qualifying events as exceptions to the open enrollment period, including loss of coverage when a child becomes ineligible for coverage under the state child health plan.

(b) The commissioner may adopt rules on an emergency basis using the procedures established under Section 2001.034, Government Code.

(c) Notwithstanding Subsection (b), the commissioner is not required to make a finding under Section 2001.034(a), Government Code, before adopting rules on an emergency basis.

#### ARTICLE 10. ADJUSTER ADVISORY BOARD

SECTION 10.001. (a) The adjuster advisory board established under this section is composed of the following nine members appointed by the commissioner:

- (1) two public insurance adjusters;
- (2) two members who represent the general public;
- (3) two independent adjusters;
- (4) one adjuster who represents a domestic insurer authorized to engage in business in this state;
- (5) one adjuster who represents a foreign insurer authorized to engage in business in this state; and
- (6) one representative of the Independent Insurance Agents of Texas.

(b) A member who represents the general public may not be:

- (1) an officer, director, or employee of:
  - (A) an adjuster or adjusting company;
  - (B) an insurance agent or agency;
  - (C) an insurance broker;
  - (D) an insurer; or
  - (E) any other business entity regulated by the department;
- (2) a person required to register as a lobbyist under Chapter 305, Government Code; or
- (3) a person related within the second degree of affinity or consanguinity to a person described by Subdivision (1) or (2).

(c) The advisory board shall make recommendations to the commissioner regarding:

- (1) matters related to the licensing, testing, and continuing education of licensed adjusters;
- (2) matters related to claims handling, catastrophic loss preparedness, ethical guidelines, and other professionally relevant issues; and
- (3) any other matter the commissioner submits to the advisory board for a recommendation.

(d) A member of the advisory board serves without compensation. If authorized by the commissioner, a member is entitled to reimbursement for reasonable expenses incurred in attending meetings of the advisory board.

(e) The advisory board is subject to Chapter 2110, Government Code.

ARTICLE 11. LIMITED PROPERTY AND CASUALTY INSURANCE  
LICENSES

SECTION 11.001. Section 4051.101(c), Insurance Code, is amended to read as follows:

(c) This section does not apply to a person who wrote for the previous calendar year:

(1) policies authorized by Chapter 911 for a farm mutual insurance company that generated, in the aggregate, less than \$50,000 in direct premium; ~~or~~

(2) industrial fire insurance policies that generated, in the aggregate, less than \$20,000 in direct premium; or

(3) policies authorized by Chapter 962 for an insurer that generated, in the aggregate, less than \$40,000 in direct premium.

ARTICLE 12. PROHIBITION OF COERCION OF PRACTITIONERS BY  
MANAGED CARE PLANS

SECTION 12.001. Section 1451.153, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A managed care plan may not:

(1) discriminate against a health care practitioner because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(2) restrict or discourage a plan participant from obtaining covered vision or medical eye care services or procedures from a participating optometrist, therapeutic optometrist, or ophthalmologist solely because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(3) exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the optometrist, therapeutic optometrist, or ophthalmologist does not have medical staff privileges at a hospital or at a particular hospital; ~~or~~

(4) exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the services or procedures provided by the optometrist, therapeutic optometrist, or ophthalmologist may be provided by another type of health care practitioner; or

(5) as a condition for a therapeutic optometrist or ophthalmologist to be included in one or more of the plan's medical panels, require the therapeutic optometrist or ophthalmologist to be included in, or to accept the terms of payment under or for, a particular vision panel in which the therapeutic optometrist or ophthalmologist does not otherwise wish to be included.

(c) For the purposes of Subsection (a)(5), "medical panel" and "vision panel" have the meanings assigned by Section 1451.154(a).

SECTION 12.002. The change in law made by Section 12.001 of this Act applies only to a contract entered into or renewed by a therapeutic optometrist or ophthalmologist and an issuer of a managed care plan on or after January 1, 2012. A contract entered into or renewed before January 1, 2012, 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.

## ARTICLE 13. CLAIMS REPORTING BY INSURERS

SECTION 13.001. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 563 to read as follows:

CHAPTER 563. PRACTICES RELATING TO CLAIMS REPORTING

Sec. 563.001. DEFINITIONS. In this chapter:

(1) "Claims database" means a database used by insurers to share, among insurers, insureds' claims histories or damage reports concerning covered properties.

(2) "Insurer," "personal automobile insurance," and "residential property insurance" have the meanings assigned by Section 2254.001.

Sec. 563.002. REPORTING TO CLAIMS DATABASE. An insurer or an insurer's agent may not report to a claims database information regarding an inquiry by an insured regarding coverage provided under a personal automobile insurance policy or a residential property insurance policy unless and until the insured files a claim under the policy.

## ARTICLE 14. SURETY BONDS AND RELATED INSTRUMENTS

SECTION 14.001. Section 3503.005(a), Insurance Code, is amended to read as follows:

(a) A bond that is made, given, tendered, or filed under Chapter 53, Property Code, or Chapter 2253, Government Code, may be executed only by a surety company that is authorized to write surety bonds in this state. If the amount of the bond exceeds \$100,000, the surety company must also:

(1) hold a certificate of authority from the United States secretary of the treasury to qualify as a surety on obligations permitted or required under federal law; or

(2) have obtained reinsurance for any liability in excess of \$1 million [~~\$100,000~~] from a reinsurer that:

(A) is an authorized reinsurer in this state; or [~~and~~]

(B) holds a certificate of authority from the United States secretary of the treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law.

SECTION 14.002. Section 3503.004(b), Insurance Code, is repealed.

## ARTICLE 15. RESIDENTIAL FIRE ALARM TECHNICIANS

SECTION 15.001. Section 6002.158(e), Insurance Code, is amended to read as follows:

(e) The curriculum for a residential fire alarm technician course must consist of at least seven [~~eight~~] hours of instruction on installing, servicing, and maintaining single-family and two-family residential fire alarm systems as defined by National Fire Protection Standard No. 72 and an examination on National Fire Protection Standard No. 72 for which at least one hour is allocated for completion. The examination must consist of at least 25 questions, and an applicant must accurately answer at least 80 percent of the questions to pass the examination.

SECTION 15.002. The changes in law made by this Act to Section 6002.158, Insurance Code, apply only to an application for approval or renewal of approval of a training school submitted to the state fire marshal 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 immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 16. TRANSITION; EFFECTIVE DATE

SECTION 16.001. Except as otherwise provided by this Act, this Act applies only to an insurance policy, contract, or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2012. A policy, contract, or evidence of coverage delivered, issued for delivery, or renewed before January 1, 2012, 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 16.002. This Act takes effect September 1, 2011.

Representative L. Taylor moved to adopt the conference committee report on **HB 1951**.

The motion to adopt the conference committee report on **HB 1951** prevailed by (Record 1657): 143 Yeas, 5 Nays, 2 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.; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; 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 — Anchia; Deshotel; Eiland; Marquez; Taylor, V.

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

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 1657. I intended to vote no.

Castro

I was shown voting yes on Record No. 1657. I intended to vote no.

Hunter

**SB 563 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Torres submitted the conference committee report on **SB 563**.

Representative Torres moved to adopt the conference committee report on **SB 563**.

The motion to adopt the conference committee report on **SB 563** prevailed by (Record 1658): 148 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; 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; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

**SB 773 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Gallego submitted the conference committee report on **SB 773**.

Representative Gallego moved to adopt the conference committee report on **SB 773**.

The motion to adopt the conference committee report on **SB 773** prevailed by (Record 1659): 109 Yeas, 37 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Aycock; Beck; Bohac; Branch; Brown; Burnam; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hardcastle; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Lavender; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon;

Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley.

Nays — Anderson, C.; Anderson, R.; Berman; Bonnen; Burkett; Button; Cain; Carter; Darby; Elkins; Flynn; Geren; Hamilton; Hancock; Harless; Harper-Brown; Howard, C.; Hughes; King, P.; Kolkhorst; Laubenberg; Legler; Lewis; Madden; Parker; Paxton; Peña; Riddle; Ritter; Schwertner; Sheets; Simpson; Solomons; Taylor, V.; Workman; Zedler; Zerwas.

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

Absent — Driver; Menendez.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 1659. I intended to vote yes.

Bonnen

I was shown voting yes on Record No. 1659. I intended to vote no.

Creighton

I was shown voting no on Record No. 1659. I intended to vote yes.

Darby

I was shown voting no on Record No. 1659. I intended to vote yes.

Harless

I was shown voting no on Record No. 1659. I intended to vote yes.

Zedler

### HB 1711 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Davis submitted the following conference committee report on **HB 1711**:

Austin, Texas, May 27, 2011

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 1711** 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  
Eltife  
Huffiman  
Lucio

J. Davis  
R. Anderson  
Hardcastle

Williams

On the part of the senate

On the part of the house

**HB 1711**, A bill to be entitled An Act relating to disaster remediation contracts.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 57 to read as follows:

**CHAPTER 57. DISASTER REMEDIATION CONTRACTS**

Sec. 57.001. DEFINITIONS. In this chapter:

(1) "Disaster remediation" means the removal, cleaning, sanitizing, demolition, reconstruction, or other treatment of improvements to real property performed because of damage or destruction to that property caused by a natural disaster.

(2) "Disaster remediation contractor" means a person who engages in disaster remediation for compensation, other than a person who has a permit, license, registration, or other authorization from the Texas Commission on Environmental Quality for the collection, transportation, treatment, storage, processing, or disposal of solid waste.

(3) "Natural disaster" means the occurrence of widespread or severe damage, injury, or loss of life or property related to any natural cause, including fire, flood, earthquake, wind, storm, or wave action, that results in a disaster declaration by the governor under Chapter 418, Government Code.

(4) "Person" means an individual, corporation, trust, partnership, association, or other private legal entity.

Sec. 57.002. APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this chapter applies to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person.

(b) This chapter does not apply to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person if the contractor maintains for at least one year preceding the date of the contract a physical business address in:

(1) the county in which the property is located; or

(2) a county adjacent to the county in which the property is located.

Sec. 57.003. DISASTER REMEDIATION CONTRACT REQUIREMENTS; CERTAIN CONDUCT PROHIBITED. (a) A contract subject to this chapter must be in writing.

(b) A disaster remediation contractor:

(1) may not require a person to make a full or partial payment under a contract before the contractor begins work;

(2) may not require that the amount of any partial payment under the contract exceed an amount reasonably proportionate to the work performed, including any materials delivered; and

(3) shall include in any contract for disaster remediation services the following statement in conspicuous, boldfaced type of at least 10 points in size: "This contract is subject to Chapter 57, Business & Commerce Code. A

contractor may not require a full or partial payment before the contractor begins work and may not require partial payments in an amount that exceeds an amount reasonably proportionate to the work performed, including any materials delivered."

Sec. 57.004. DECEPTIVE TRADE PRACTICE. A violation of this chapter by a disaster remediation contractor is a false, misleading, or deceptive act or practice as defined by Section 17.46(b), and any remedy under Subchapter E, Chapter 17, is available for a violation of this chapter.

Sec. 57.005. WAIVER OF CHAPTER PROHIBITED. A person may not waive this chapter by contract or other means. A purported waiver of this chapter is void.

SECTION 2. The change in law made by this Act applies only to a contract for the performance of disaster remediation services that is entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

Representative J. Davis moved to adopt the conference committee report on **HB 1711**.

The motion to adopt the conference committee report on **HB 1711** prevailed by (Record 1660): 146 Yeas, 1 Nays, 2 Present, not voting.

Yeas — 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, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; 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; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Davis, S.

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

Absent — Rodriguez.

**SB 747 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Hamilton submitted the conference committee report on **SB 747**.

Representative Hamilton moved to adopt the conference committee report on **SB 747**.

The motion to adopt the conference committee report on **SB 747** prevailed by (Record 1661): 148 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; 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; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

**SB 1534 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative J. Davis submitted the conference committee report on **SB 1534**.

Representative J. Davis moved to adopt the conference committee report on **SB 1534**.

The motion to adopt the conference committee report on **SB 1534** prevailed by (Record 1662): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne; Madden; Mallory Caraway; 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; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent — Gonzalez.

**HR 2558 - ADOPTED  
(by Pitts)**

The following privileged resolution was laid before the house:

**HR 2558**, suspending limitations on conference committee jurisdiction  
**HB 1**.

**HR 2558 - POINT OF ORDER**

Representative Y. Davis raised a point of order against further consideration of **HR 2558** under Rule 13, Section 9 of the House Rules on the grounds that text of the bill that was not in disagreement between the two houses was changed.

**MESSAGES FROM THE SENATE**

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 3 and 4).

(Speaker in the chair)

**HR 2558 - (consideration continued)**

The speaker overruled the point of order.

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE Y. DAVIS: And I appreciate your ruling on this. I don't necessarily agree, but I need to ask a question about it. In the rule book it says that in this section it should be "exact words," and now what you're saying is that it's not required to have the exact language in it? If you look at—it says, "This rule shall be strictly construed by the presiding officer in each house to achieve these purposes." So, over on Section G, number 1, it says "the exact language of the matter or matters proposed to be considered" needs to be in the resolution. And so, the parliamentarian acknowledges that this is different. And it says that the chair is supposed to rule with strict—construed strictly. I'm just trying to understand how we make this determination, as that's not a good point, when, in fact, we realize it's not exact language. And, if you acknowledge that it's not the

correct language, then the question is, are you making this ruling without considering the rules where it says it should be strictly construed? Are you just ignoring that part of the rule?

SPEAKER: Ms. Davis, the chair has reviewed your point of order, the resolution, and the bill and finds that it's in compliance with Rule 13, Section 9.

Y. DAVIS: And I was just speaking specifically about—I get that you've overruled me, and I appreciate that you are reiterating that—I just wanted to understand about the limitations on jurisdiction. It says that this rule should be strictly construed. My question is, based on this determination and your ruling, are you acknowledging, or would you acknowledge that you're not construing—using strict compliance with this rule?

SPEAKER: No, ma'am.

Y. DAVIS: No, ma'am, sir? No, ma'am, you're not? I don't even understand what no ma'am meant, I'm sorry.

SPEAKER: We are construing it according to Rule 13, Section 9.

Y. DAVIS: And the last question that I'd like to ask is it says "the exact language" of the matter or matter supposed to be considered. We know that was not in the resolution exactly. So are you not recognizing or acknowledging that rule that says the exact language has to be in the resolution?

SPEAKER: No, ma'am. We are not acknowledging that.

Y. DAVIS: Parliamentary inquiry—your lack of acknowledgement does not necessarily mean it's not that way though, is that correct?

SPEAKER: Ms. Davis, the chair has ruled, and the chair would be happy to move that your comments be place in the journal.

### REMARKS ORDERED PRINTED

The speaker ordered printed remarks between Representative Y. Davis and the speaker.

The motion prevailed.

**HR 2558** was adopted by (Record 1663): 100 Yeas, 46 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; McClendon; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner;

Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hartnett; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, S.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Miles; Muñoz; Naishtat; Oliveira; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent — Guillen; Menendez; Pickett.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1663. I intended to vote no.

McClendon

### HB 1 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the following conference committee report on **HB 1**:

Austin, Texas, May 26, 2011

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 1** 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

Duncan

Hinojosa

Nelson

Williams

On the part of the senate

Pitts

Crownover

Otto

Zerwas

On the part of the house

**HB 1**, General Appropriations Bill.

### HB 1 - REMARKS

REPRESENTATIVE REYNOLDS: Members, before I go any further, I want to first of all say that we should all commend Chairman Pitts and the conference committee for the hard work, the sacrifice, the diligence, the hours they expended on **HB 1**. So, Chairman Pitts, and the conference committee, thank you very much.

Now, I also know that as a freshman member, it's often said that it's better to be seen than heard. And while I may partially agree with that, when I saw **HB 1** there was no way I could remain in my seat and remain silent with the type of budget cuts that we were about to undertake. Our constituents elected us to represent our district by setting priorities, and by doing what is in the best interest of our state. We aren't here to cater to any special interest groups, and yes, that does include the Tea Party. We are here to govern and be statesmen. The 82nd Legislative Session has been a challenging one due to the budget crisis we find ourselves in. The challenge of working through problems, however, has been compounded by the refusal by some members to step up to the plate and make tough decisions that are in the best interest of our state. We have had all session to deal with the crippling multibillion dollar shortfall. But instead of dealing head on with the real financial problems of the state, we have chosen to shift the attention to divisive, hot-button, partisan issues—like voter ID, sanctuary cities, the sonogram bill, and yes, the so-called tort reform—issues that have no bearing upon what Texans care about the most.

As this session approaches an end—we have two days left—we are finally talking about school finance. Why wasn't this declared an emergency item? Rather than taking a hard look at the long-term solutions for our fiscal crisis, we chose instead to look at short-term solutions and gimmicks using band-aids and chewing gum, along with Enron-style accounting, to get us through the session. We are in essence kicking the can down the road. The house version of the budget, **HB 1**, passed earlier in this session, was held as a victory by many conservatives and Tea Party advocates. However, those cries of victory came to a screeching halt when the senate adopted a version of the bill that spent \$4 billion more on education over the next biennium.

One important issue to keep in mind is how we ended up in this situation in the first place. An ill-designed tax swap in 2006, which reduced property taxes by replacing the franchise tax on businesses, has fallen far short on projections creating a structural deficit that accounts for about a third of the deficit within our budget. The Legislative Budget Board, an independent nonpartisan arm of the state, predicts that the proposed house budget would result in a projected job loss of thousands of Texas jobs, including teachers and state employees. The practical reality of the house's \$4 billion cut to public education is a reduction of approximately \$450 per pupil in funding, which equates roughly a \$10,000 cut to each public school classroom. It ignores the 160,000 new kids who will enroll in Texas schools over the next two years, and I believe that's what Chairman Gallego was trying to make a point of. While the compromise with the senate helps provide additional funds for our schools, it still does not help the state meet its obligation to adequately fund public education. The leadership continues to reiterate that we cannot use the rainy day fund, the state's savings account created by a constitutional amendment in 1988, for financial situations like the present one. This is despite the fact that the same legislature appropriated all of the rainy day fund in 1991 and 2005. As of today, the fund contains upwards to \$6 billion in reserve.

Extreme cuts to public education pose a great threat to the future prosperity of our state. We need to make Texas schoolchildren a priority, and it is economically shortsighted to increase class sizes, fire teachers, and under-fund classrooms. Education is the key to innovation, and the technology jobs of tomorrow require students with strong backgrounds in math and science to compete in the 21st century global economy. The result of drastic budget cuts here will be closing of neighborhood schools, the elimination of art and vocational programs, and the elimination of access to prekindergarten programs for thousands of children. Currently, Texas ranks 44th out of 50 states in per-pupil spending—44 out of 50. And with this budget, we are likely to be dead last. As of today, we are currently ranked near the bottom in graduation rate, and at the top in dropout rates. We are last in our nation in the percent of our population over the age of 25 with a high school diploma. And we have an ever widening teacher gap. The cuts to education stands to further put our kids at risk, accelerate the path to failure, and will drive industry out of the state in the absence of an educated workforce. Any attempt to move forward imbalances the state budget without using the rainy day fund creates a doomsday scenario; it's unrealistic and it's not representative of a government that places value on securing the future of our children. It is incumbent upon us, the state legislators, to move forth by tapping the state's savings account and make more resources available to fund public education. The most recent revenue estimates by the comptroller predict an additional \$1.2 billion will be available to the state over the next biennium, and forecasts an additional \$300 million will be available for the rainy day fund for appropriation. If we're going to do what's just and right, we must close corporate tax loopholes and make sure businesses pay their share. We have to uphold our statutory obligations to properly fund our state's programs and not shortchange our future opportunities for development and business growth. Finally, we must implement limited responsible cuts to the budget, protect important priorities like public education and jobs, and avoid a deepening economic recession by expending more of the rainy day fund.

Members, we're all here to represent our districts, and I totally, wholeheartedly agree with Chairman Pitts that this is not a partisan issue. Public education is a fundamental issue. It doesn't matter if you're a democrat or if you're a republican, if you come from an urban school district or a rural school district, or you live in a suburban area. Public education is, and should be, our number one priority. And this budget doesn't do that, because we have available funds in the rainy day to appropriate to minimize the cuts we make to public education. One of the reasons why we're gaining four congressional seats is because of the explosive growth the State of Texas has had over the last 10 years, and we are not accounting for that growth in this budget. And that is the reason why I urge you to vote no.

REPRESENTATIVE OTTO: Members, this is my fourth session in the Texas House, so about half of you have been here longer than I have, witnessed more things on this floor than I have, and about half of you haven't. But I recall when I first came here in 2005, this legislature two years prior had come through a \$10 billion shortfall, and they were notified about it, I think, about the week they

showed up. In 2005, when we came back, the economy in Texas was doing well and we were actually able to reverse some of the deferrals that had been used—not all of them, but a great majority of them. In 2007, we came back to record revenues in this state. Sales tax were growing at double-digit rates year over year. Times were good. In 2009, just last session, we were in the beginnings of what has become the worst recession since the Great Depression, as everyone has said. We also received about \$12 billion, roughly, in federal stimulus money that was spread throughout the budget and allowed us not to have to make the hard decisions that now face us today. If you look at what's being reduced, there's an \$18 billion drop in federal funds in this budget. About \$12 billion of that obviously is probably the stimulus money that's not here this time. The other part is, not only have we lost the higher FMAP on Article II, Dr. Zerwas tells me we're even now below where we were because we're cross-bearing at a rate that some of the other states are not. So our FMAP has actually dropped percentage-wise to the state dollars or GR dollars that we put up.

This is my third session sitting on Appropriations. This is, by far, the most difficult budget that any of us on Appropriations has worked on. All of us would like to see public education at a higher level of funding. What the house accomplished in conference, in my opinion, is the best we can do on the priorities that are important to this house with the resources we have. My constituents sent me here to make the hard decisions, just like they sent you here. They also sent me here with the expectation that we would live within our means. I remember Fed Chairman Bernanke at the Southern Legislative Conference this past spring warning states that you had better find new sources of revenue for your rainy day fund because the volatility that we were beginning to see he expected to continue.

All of us hope we are coming out of this recession; there are positive signs that we are coming out of this recession. But there are also fears on the horizon about interest rates and what will we do if the economy turns downward. I think that this budget is a prudent budget. It's one that I can support, and it's one that I can go back home and explain to my constituents, and that is why I will be voting for **HB 1**.

REPRESENTATIVE Y. DAVIS: Texas and Texans deserve best. I raised a point of order on **HR 2258** to try to stop the bleeding. While I knew it was the time of session and I knew that it was going to be overruled, I thought it was important to raise it, because I think we really need to take a minute to look at what we're doing as Texans. There's no question that we had limited resources; there's no question that we had to make hard choices as legislators. I filed several bills during the session to help raise revenue because I came with the same expectations that every member did: how do we make Texas stronger; how do we make it better; how do we make Texans stronger; and how do we get the best that they have to offer. Those bills were not considered because someone made a decision that we would not have new revenue on the table. While I understand that we probably pass bills that have about \$100 million worth of fees on to the citizens of this state, we keep saying we're not raising revenue, but we're seeing them to death.

We talked about not spending the rainy day fund, we need to hold and preserve some money from the rainy day fund. It's flooding; I don't know why everyone's not clear about that. It's flooding and we need to be using those monies so that we can save the integrity of our state. And I just rise and say to you—I know that many people say well, why did you raise a point of order, and I just saw myself limited in terms of what options are available to stop the pain.

You know, I heard a lot of folks talk about less government is better, less government is what we should be aspiring for. Well, I took a new tune: less government means less pain to our citizens. And so I submit to you that Texas and Texans deserve better.

**HB 1** provides nothing but pain, and we ought to be ashamed that we could not figure out better ways to get there. You know, in 2006, the comptroller told us that we could expect this fiasco, this fiscal fiasco. We knew we were dealing with a structural deficit in our budget. We knew that. Everybody that was here during that time, they're not surprised that there's a structural deficit. That's never been a question that there's been a structural deficit. We voted on it. I voted no, but many of you passed it on, and so it faces us today.

We talk about the taxes and exemptions that are out there. We say that we don't want to raise taxes, but in fact, we've given those exemptions. We are reluctant to just review whether or not there's a value to the State of Texas. But we pass pain over to the citizens. And I would just submit to you that as you vote for **HB 1**—and I'll suspect that it'll pass without my vote obviously—I think that we really ought to stop and take a real look at what we're doing to people, what we're doing to Texas, what we're doing to Texans. And we've got to ask ourselves if this is the best we can do. And if you think this is the best we can do, you're going to vote for this bill, I suspect. But if you think that we can do better by Texas, that Texas deserves more from us, and that less government can mean less pain, then you'll join me in voting no on this bill. This is not, this is not a budget that we can be proud of. We ought not put our children, our seniors, our services—we ought not make them secondary. We ought to be proud of what we think Texas is about. But how can we be proud and undermine them by not funding it to the level it needs to be funded so that, in fact, we provide the services our citizens need? How can we go away knowing that we cut \$15 billion and we left corporations making billions of dollars from not paying taxes while citizens are struggling to pay their taxes? How can we be comfortable with that inequity? How can we say that we are doing the best we can when we're leaving money in the account that's called the rainy day fund and not filling those gaps in our budget for children and for seniors, for education, for scholarships? How can we be comfortable with that? So I would just tell you that while I did my best by raising a point of order and stopping it, thinking less government would mean less pain, I accept that we have to vote on this budget and I'll accept that it'll probably pass. I will tell you, members, that many of you, when you get home, will be asked the question couldn't we do better. And I hope you'll take some time to think about it so that next year and next time when we come back, if it's in July or August, we make a commitment to govern Texas like we really are

proud of it and to govern Texas like we want it to be this great state that we often talk about, and to support those citizens that we call our constituents in a way that we'd have them support us.

REPRESENTATIVE CROWNOVER: I would like to agree with everything that Representative Otto said. I was on Appropriations in 2003 and that was my first bite at that interesting apple of appropriations, and it was a scary time for all of us. As we walked through that, the process, there were articles in the paper about how Texas was just going to fall into a slump. Everyone was going to move away from Texas and there was going to be nothing left but old, dying people. You know the story; that didn't happen. We held firm, we did the right thing, we steadied the course, and we were able to reap the benefits.

Here we are, 2011, in an unprecedented—by anyone's terms—unprecedented economic times, and we are trying to adjust and are trying to do the smart, wise, prudent thing in these unprecedented times. I'm looking here at the handout. All funds will be cut by 8.1 percent. Our general revenue will be cut by two percent, and I want you to sit and think. How many of you have been in businesses that had a bad year? Have you ever had a year where you were ending up with less than 50 percent of the revenue you thought was coming in? I bet there are a lot of people here who have done that, and what you do is you buckle up and make it work with every ounce of your body. I know my church has had challenges, and there are programs that we have not been able to do that we wished we could have done. We look forward to restoring those as soon as possible. So, I think I have to applaud Chairman Pitts and the hard work the whole Appropriations Committee has done. I think this is the right thing for Texas, and I will be voting aye.

REPRESENTATIVE GIDDINGS: And before I begin, certainly like everyone else here, I applaud my good friend Jim Pitts. We're not just friends in session, we are friends out of session as well, and I know his heart. I know how conflicted he is. And I'd like to applaud, as well, the work of all of the members of the Appropriations Committee, and likely at the end of this bill, after I vote, I will be delighted to stand up and give him a nice round of applause, along with the members of the Appropriations Committee, all who have worked extremely hard.

Like most of you, I have absolutely no appetite for a special session. At the same time, I have even less of an appetite to have our state lower standards in education. Education is a must—it has always been a priority for us here in the State of Texas. Right in our constitution in Article VII, Section 1, we are directed to make suitable decisions for the support and the maintenance of our public schools. And I don't think we're doing this in this bill. I don't believe we are making suitable provisions. For public schools, we are cutting the per pupil rate by about \$400. As a result, Texas, which already ranks 43rd in per-pupil spending, will likely fall even lower. The shortchanging of our school children is, in my opinion, irresponsible and reckless.

In higher education, a near 30 percent reduction in the amount of students receiving TEXAS Grants is nothing less than appalling. Thankfully, we will renew grants for the students who currently receive them, but we are drastically

reducing the number of new recipients. To know that we are facing and placing a financial burden on some 40,000 working class families across the state who want their children to achieve and surpass them in life, and to support this budget is not only irresponsible, as far as I'm concerned, but unconscionable. These cuts will prevent students from being prepared and productive citizens and leading the kind of lives their parents dreamed for them.

I think it's sometimes believed in this house that most of these TEXAS Grants must go to students who live in democratic districts. Well that's not exactly the case. I speak and I work to make these grants available to students throughout the State of Texas. In District 109, which I represent, in 2009, there were 244 students who received TEXAS Grants. If I go down the list and look at some of the other districts we think of as republican, because they are headed up by republican members of the house, we would see that District 5—528 students in that district. And again, District 109 is 244. We would see District 57, Representative Beck, with 786 students in that district. My district, 244; District 113, Representative Driver, 629. My district, 244; Jim Jackson, District 115, 569. My district, 244; Jim Landroop, District 85, 630. And I could go on and on and on, but the point to be made is these are all our children. And it shouldn't matter whether they live in districts that are so-called democratic or republican. They are all our children. And it's in our best interest that all of these children, and these students, have an opportunity to get a good education. And what makes this difficult is that we won't see the harm we have done right away as we slam the door on these students. Things will appear to be fine on paper, but if we do not reject these invasive cuts to our education system, once the problem becomes clear to us, we will have lost a whole generation of Texans. Most of us know this bill is fraught with "funny money." Why are we depending on waivers in Health and Human Services that we have been denied? The economic stabilization fund was put in place for a time such as this: when working families have wage earners who have lost their jobs when unemployment is high. You may say unemployment is only around eight percent in our state. Well, guess what—to a person who is unemployed through no fault of their own—and who wants to work—unemployment for that person is 100 percent.

We talk a lot on the house floor, and I would never reveal what house members say to one another on this house floor, but I will say that the score cards are causing some of us to make really bad decisions. But our legacy—and that dash between the years we came and the year you left—won't reflect the score card. Our legacy will center around the folks who want to go to college and we slammed the door in their faces. The children whose exposure has been limited, and they need pre-k to catch up, and we said "no." That will be our legacy, and the score card can't erase that.

The words of Dr. King have been used on this floor many times before, and to paraphrase what he said, it is not what we do in moments of convenience, but what we do in moments of challenge and controversy. He finally says, in that famous quote, "Conscience always asks the question—is it right?" Is it the truth? And I trust the conscience of each and every one of the members of this house. It is those people outside this chamber with the score cards that I don't trust. My

request is that each and every one of us simply vote our conscience, and I know we'll get it right if we simply vote our conscience. The people who send us here deserve that, and that is all that they ask for.

REPRESENTATIVE FARRAR: Mr. Speaker, members, we keep hearing that public education, and other areas in the budget, are getting more money, and I guess you could say that. You could say that if you are comparing it to the original version of **HB 1**. It might also be true if you are including federal stimulus dollars as GR, which we are also doing. It might also be true if you think that a responsible budget does not look forward to enrollment growth in public education, as we are not. To growth in colleges and universities, community colleges, Medicaid case loads, and Department of Family and Protective Services caseloads—if you're not accounting for those things, you may think, yeah, we're saving money, but we're not, because we're not looking forward. You wouldn't say, for instance, that your own personal budget is balanced if you deferred your car payments from this month to next month. Because, what happens next month? You owe this month and next month's next month and that's sort of what we're doing with this budget.

Let me share with you some of the accounting tricks that we're dealing with in **HB 1**. We've—some have been mentioned before, and I'm sorry if I'm repeating some—but we've got \$4.8 billion in unfunded general revenue for Medicaid. We're only funding Medicaid for 20 months. We are deferring \$2.3 billion of public education dollars into the next budget. We are also speculating \$800 million worth of property taxes will return to us at greater than projected levels. We're using GR dedicated dollars for general revenue, but let me tell you what we're going to face in two years. We've heard this before, *deja vu* all over again, well, we'll face that, but it's going to be on steroids, because what we're doing is just making the minimum payment today. What we'll face between now and the next two years is a shift. It's going to be a shift to the local taxpayer. And so, what we're doing to our constituents is, instead of spreading the burden over the entire state, our local taxpayers will be paying for things all by themselves. You know, I just wish we'd all be straight with the people of Texas. Nobody likes taxes, and we all—I guess the majority of folks here campaign on no new taxes, and so on. But here's the thing—things our constituents want do cost money. I saw a bumper sticker one time, maybe you've seen it before, that if you think public education is expensive, try not spending on it. Our constituents expect us to be good stewards of public dollars, and just because we don't make an expenditure, just because we cut something doesn't mean that the cost goes away.

It's our duty to spend money wisely. To spend it up front, where it's cheaper, than to spend it on the back end where it's more expensive, and unfortunately, that's what we continue to do. We need to have the courage to have sound fiscal policy, which we are not doing here in **HB 1**. I would encourage you to vote no on **HB 1**.

REPRESENTATIVE CASTRO: Mr. Speaker and members, the budget that we're about to vote on is the worst Texas budget in more than a generation. I asked a question a while ago of Chairman Pitts about how we arrived at this

budget. Again and again I've heard over the course of this session this idea that we're living within our means. And I would submit to you that this budget is not about living within our means, but more a budget that's trapped by a certain ideology. We have, during this session, the legislative tools to make another choice. That doesn't necessarily mean that you have to raise taxes, which is why I asked the question about fees, I asked a question about the clothing tax exemption.

I find it odd that part of the justification for the budget—for cutting \$4 billion from public education—is that is what the people of Texas asked us to do. If you sincerely believe that, if you believe that the people who elected you in November sent you down here to cut \$4 billion from their public schools and a billion dollars from higher education, then I hope that, as the fall, and the spring, and the summer, and the next fall come along, that when somebody in your district comes up to you—a middle-aged woman who tells you that her mom can't afford to go to a nursing home, and asks you why that is, that you will look her dead-straight in the eye and your answer will be, "Because that's what you sent me here to do. That's why I passed that budget." Or, when a 40-year-old mother tells you that she and her husband are having trouble sending their kid to college because they can't afford it, because tuition has gone up about 75 percent or more at public universities since 2003—and this budget further cuts financial aid and cuts funded universities—and she asks you why that is, I hope that you'll have the same bravado that you will when you vote in a few minutes, and you'll say, "Because that's what you elected me to do. You elected me to cut your son's financial aid, and that's why I did it." I don't believe that's why they sent us down here, and I don't believe that that was the message they were sending us. That is an ideology. That is not practically what people want in the State of Texas, and we have the tools to do something different and refuse to do it.

Others have mentioned that we are, if not the fastest growing state, one of the fastest growing states in the nation; in fact, the governor often brags about that. And if he enters the race for president, I'm sure he'll brag about it even more—that we've recruited in the last 10 years, 700,000 jobs to Texas. But, there's some context to that fact, and I doubt that those facts—those lesser-known facts—will be discussed by Rick Perry. And that is, of all those jobs we've created, including the well-paying ones, that a significant portion of those jobs have gone to people who have moved here from out of state, who have moved here from California, or Colorado, or other places on the East Coast. And the reason for that, I believe, in big part, is because we aren't building what I've called that infrastructure of opportunity. We're not funding our public schools and our universities properly. In other words, we aren't preparing and training our own people in Texas to assume these new jobs that are being created. So the jobs come to us and they're filled by other folks, and with a budget like this, that will continue to happen.

I'm also disappointed that there weren't other ways that we considered raising revenue. I know that many of you from both parties support gaming. Gaming is not a mandatory course of raising revenue, it's still a voluntary thing. That never had a serious discussion in this legislative session. All around, this

budget is both a betrayal of the public's trust, and a failure at its highest level. And for that reason, when it passes today, it will be the worst budget in a generation.

REPRESENTATIVE COLEMAN: You know, this is tough for everyone, and no one wants to go home knowing that the budget isn't good enough for their constituents. I just want to talk about a couple of things. One is that if you take this budget and you look at current services the state should be spending, to maintain services, \$99 billion in general revenue. Instead we're spending \$80.7 billion in general revenue, which means this budget is \$18.3 billion short in 2012 and 2013. And I want to make that clear, because when we talk about whether or not we are funding something appropriately we have to look at the people who need the funding to do the things that they have to do. What's common in this budget is the league that the people actually need the services, now and in the future, are not included in this budget. The growth of the State of Texas is not included in this budget. So, when this budget goes forward it doesn't include any growth of any people who will be living in this state in the coming years. And that's the problem, because you can't stop people, you can't stop growth.

The other thing is that we are deferring \$10 billion into the next biennium with a structural shortfall, what I like to call it, which is \$10 billion. We are looking at starting the 2013 session with a \$20 billion plus shortfall. That's exactly where we are today. All of you know when the LBB, the speaker, the lieutenant governor, and the governor all looked at this session, and they started in May looking at putting together the legislative appropriation request, it needed to be funded. They sent out letters, first thing lets do a five percent cut, and then a 10 percent cut, and that added up. That's a 15 percent cut. So, a year from now in May, the amount of cuts in this budget are going to grow, because a letter is going to go out that says, "Agencies, cut your budget by five percent across the board. Agencies, oh, that's not enough, cut your budget by 10 percent across the board," so that the amount of money that is short coming in to the beginning of the next biennium that shortfall—so that shortfall can be brought down. These cuts are just hidden. They're just pushed off until the start of the calculation of what's needed to fund the next budget. Now, when someone says we are actually doing better, no, we are actually doing worse, because most of the cuts that were asked for during the making of this budget, those across-the-board cuts, were cut from the baseline of this budget. So there are cuts, they are there. As a matter of fact, I think I saw a press release saying \$15.5 billion in cuts, isn't that wonderful?

Now, just a few more things. It's really more than a billion dollars cut to higher ed, because the state needed 700 million more dollars to actually fund higher ed appropriately. And so, the cut of 332 added to that 700 million is a billion. And when that billion is not appropriated, that means tuition will go up. And we've calculated, we believe tuition will go up over a thousand dollars a year, and if you just held that constant over the next five years, that's a \$5,000 increase in sending our kids to college. And most people would say this is about poor kids. No, this is about our kids, because the money that is actually saved that is added to give out in scholarships through increases in tuition, somebody

making 60 or 80 thousand dollars a year, which you all know is not a lot of money, has to pay full freight, and they can get no aid from anywhere. Try sending three kids to college at a total cost of about \$150,000, maybe more, over four years. That's \$450,000 to a state school where you live. So, this just continues those trends.

I guess the last thing—when you look at people with mental illness, and I talk about this a lot, we have an opportunity to fill in all of the cuts to people with mental illness, but we are not going to take that opportunity to reduce the number of people who would not be cared for under this budget, and that disappoints me. That really, really disappoints me, because even Ronald Reagan said they are truly needy, and this budget doesn't even fit his standards. So, I end with—we can do better than this, we have done better than this, and in my 20 years here I've seen people rise to the occasion that would have been defeated at home because they actually did something different than what they were told. I've done that, too. I signed on a conference committee report that has **HB 5** in it, and I'm adamantly against that, but I signed on it anyway, because I think the overall bill is good. So, when I look at those people with grace, I think of Lieutenant Governor Ratliffe who went to do the things that made a difference to all Texans in every district, and he didn't fear for his political life when he did it. So, I'm going to vote no on this budget, but what I really think we ought to do is think about this over the interim, because, members, when you come back, and when we come back we'll be facing a \$20 billion plus shortfall, and the angst that you're going through today, I hope, will be the same angst we will all go through in the next session writing a budget for the next biennium following this one. I want to thank all the people who've done their good work. This is hard and this is not a reflection on them. It's a reflection on the times that we are in, and for all of us, I think we have to dig deep down inside and say, "What is important to us? What is important to the State of Texas, and can we do better?" I think we can.

REPRESENTATIVE ALONZO: Members, first of all, I would like to start off by saying Mr. Pitts is a nice guy. He really is a nice guy; I think he's a nice guy. But now, let's talk about the budget. You know, we hear that the reason the budget is the way it is, is because of November 2010. The reason the budget is the way it is, is because of election 2010. I remember, in 1993, I was told: you get elected, then you come here and make decisions. And I was told that 95 percent of what we do is not democrat or republican; it's the good for the State of Texas. And that 95 percent is the budget, so we have the election in November, then we come here.

And I kept hearing a lot, a lot, a lot, that the election said "cut, cut, cut." But then we had tons and tons of people come to this Capitol, have protests, have marches, make their comments, and have visits to our districts. And in that discussion, with people coming to the office, they said "no cuts, no cuts, no cuts, no cuts, no cuts." After they started hearing about what was going on, they came back and they would say "no cuts, no cuts, no cuts." People would come to my office—whether it was health care, whether it was education, with higher ed, they said "no cuts." I said, "See this sign? It says no cuts, but it's not me you have to convince, it's the rest of the folks in this Capitol," the rest of the folks in this

capitol. And they did; I think they did. They came to each one of us and they said "no cuts, no cuts, no cuts." I don't think we heard from anybody that said "cuts." In fact, the ones that were asking for cuts didn't even come, because they thought they had made that decision in November. But the people that did care about no cuts, no cuts, no cuts came to visit us. And you know, members, it's hard. It's hard to come, because it's a long way from El Paso. It's a long way from Dumas. It's a long way from Longview. It's a long way from Brownsville. It's a long way from El Paso. It's a long way from a lot of places.

But, my main topic is about the cuts. What does that mean? It means the family planning services are being cut by \$73 million—66 percent. It means chronic disease prevention programs are cut by 47 percent. It means HIV/STD prevention programs are cut by \$28.5 million. It means that we'll have \$5 billion in cuts for TEA. It means that 85,000 youth students will not be helped. They'll be cut. It means that \$4 billion for the Foundation School Program will be cut. It means that in higher ed over \$1 billion will be cut. So there's tons, and tons, and tons of cuts. But then the question becomes, do we have the resources? Do we have the resources? And the answer is yes, we have the resources. How and where do we get those resources? One, we have the rainy day fund. Now, in the discussion we would say we are not going to use the rainy day fund, but in the discussion is an example—when the wildfire happened, the governor said "that's a disaster, let's use the rainy day fund." Right? Right. But don't you think not funding 85,000 youth students is a disaster? Don't you think cutting \$4 billion for schools is a disaster? Don't you think cutting \$1 billion in higher ed is a disaster? Yes, it is, yes, it is, yes, it is.

I will terminate this conversation by saying don't forget, don't forget, don't forget. And we will say the decision was made in November, and to all of those that I know I told: you decide, we are just here because of you. Right now, we that are here believe that you out there wanted us to do the cuts. I think that you believe in no cuts, but that's out for you to decide, and the way that we are deciding is by elections. I will end by saying, one of our newspapers once said, "Texas needs leaders who value fiscal austerity, low taxes, and limited government, but we also need those who recognize the fundamental: such public schools and public college aid can't be sacrificed without damaging every aspect of our state and future."

REPRESENTATIVE VILLARREAL: I want to also first recognize the efforts of our chairman of Appropriations, Mr. Pitts; the speaker, members of the conference committee, and all their staff. I know this in an effort that takes a lot of people, it involves a lot of time, and they've put in a lot of work.

I want to make three points very clearly. This budget is a betrayal of Texas families, especially women—especially women and children. Number two, because of this budget, Texas will lose jobs today, and worst of all, it is going to put us in a weaker position to compete for jobs in the future because of the less-educated and less-skilled workforce. Finally, this legislature had other options. We had other choices that we could have made, but the legislature failed to have the courage to do what's right for all of Texas.

The budget cuts will have a disproportionate impact on women. There will be millions of women harmed by this budget. Here is one woman's story as she wrote in a letter to me: "My name is Danielle Hernandez. I reside in San Antonio, Texas. I'm a single mom, an employee, and a full-time college student. I attend Our Lady of the Lake where I am pursuing my teaching degree in special education. I'm going to school in order to provide a better life for my son. I'm aware that Tuition Equalization Grant funding and TEACH Grant funding may be decreased or eliminated. If there is no funding available, then I cannot continue my college education. Please help me be the first person in my family to obtain a college degree." She goes on to write, "My health has not been too good lately either, but I push myself to finish college in order to provide for my son with a more stable life. God bless." Danielle, I'm sorry to tell you that we did cut TEG and other state-funded college grants and scholarships. You may be one of the 43,000 Texans who will not receive help from the state to become a teacher. Even worse, this budget cuts education and thousands of jobs for teachers, which will make it harder for you to find employment once you do complete your college degree. Even worse still, the education your son is receiving, the quality of it, will be harmed—with fewer teachers, students, classrooms will obviously be more crowded. Please take care of your health as best as you can, because this legislature has also gutted women's health care and family planning services by 66 percent. When the house debated the budget in April, republican legislators spent hours attacking women's health and family planning services, and the women of Texas now have to live with those cuts. Basic, preventative health care that might have been there for you, will not be there for you, Danielle. Please, take care.

The legislature could have done more to protect innocent children from being hurt by this budget. Let me tell you a little story about a young lady named Kiera. She is three years old. She lives in Burleson, Texas. Her grandfather called me. He loves her so much, he wanted to tell me about her pre-K program that allowed her to mainstream with other three and four-year-olds. You see, little Kiera is suffering from Down Syndrome, she's living with Down Syndrome, but this public pre-K program has meant a lot to her. It's allowed her to advance in her social skills and her learning. As it stood then, the district would be eliminating full day pre-K for Kiera and her classmates as a direct result of this legislature planning to eliminate public pre-K grants, and, of course, cutting public education overall. Roger, if you're listening, I had hoped little Kiera and thousands of others would be spared. Unfortunately, this legislature failed to act. They will lose their access to full day pre-K. I wish we had used some of the rainy day fund for the next two years or cut back on some of the corporate tax giveaways to help your granddaughter. This legislature felt differently. Please try to find a way to provide Kiera the professional services she will need. As you know, if she does not receive them at an early age, because of her condition, she will live a much harder life.

The Brigidine Sisters of San Antonio wrote to me begging me to stop health care cuts for the elderly and to understand that they are not statistics. They are real people. They told me a special story about one of their own, Sister Winifred,

a woman who dedicated her whole life to caring for others. The sisters are very concerned for their Sister Winifred because their community is aging themselves, and if Sister Winifred loses her spot at the nursing home, they won't be able to take care of her properly and take her in. Sisters, if you're listening, we did make progress. However, I'm sorry to inform you that this budget leaves in place the cut to nursing homes that was implemented last year, and cuts in our overall health care budget are to the tune of 30 percent. Please prepare for the worst, sisters, because in 2013, our health care budget that makes payments to nursing homes and other health care providers runs out four months early.

You see, this budget is hard on women in a lot of ways. If the state is not going to be there for vulnerable children and elderly, it will most likely be women who pick up the pieces, who will have to change their lives dramatically to step in. Carol Poore has an 83-year-old mother who lives in an Alzheimer's unit in Gunter, Texas. Carol said she would have to resign from her secretarial job to care for her mother if she were to be discharged. Neither of the women is able to pay for a nursing home or a home health care nurse.

Here's another story: Janet Amicarillo in San Antonio. She has a 23-year-old son with severe autism. He cannot communicate, sometimes he's aggressive. He requires 24-hour care. If he loses his group home slot, she too will have to leave her job, because she cannot afford to care for him and pay somebody else the professional services that he requires. She fears she'll be reliant on public assistance.

Let's now talk about jobs. Make no mistake, this budget will impact all of us, because it impacts our economy. The LBB, the keeper of the numbers that we rely on to estimate our price tags on every single budget, and to tell us how the numbers add up, they did their own, independent analysis and found that **HB 1**, earlier in the year, will cause the state to lose 335,000 jobs. An increase in unemployment of two percent. Now, I know there's a lot of debate on this report, but here is one thing that we cannot debate, and that is, those in control of state government should have seen this coming since 2007. In 2007, our budget shortfall was eight percent. You might ask, how do you pass a budget with an eight percent hole? Well, we used money from a prior budget cycle. A fund balance. The following budget cycle, when we got together in 2009, that hole nearly doubled in size to 14 percent. We were fortunate to have stimulus dollars to help us bridge this budget hole—or to fill this budget hole. Of course, in 2011, the hole, again, nearly doubled to 27 percent. How are we solving this now? Through a cuts-only and accounting tricks approach to the budget.

My friends, we can do better. We have to do better than this. Texas cannot grow itself out of this problem. It cannot, because our population is growing less educated. Our population is growing less educated because we are failing to educate them. It didn't have to be this way. The governor and the legislature made a choice to do this. They could have chosen to use some of the rainy day fund to pay for the next two years; they chose not to. They could have chosen to close tax loopholes and make all corporations pay their fair share; they chose not

to. They could have chosen to fix our broken business tax; they chose not to. Instead, this legislature chose to balance the budget on the backs of vulnerable Texans and women.

REPRESENTATIVE HOCHBERG: Thank you, members, for your patience, particularly since I think we all know the outcome. So, thank you for patiently listening as those of us on my side sort of get our last shot at this. And I don't have any charts, so—and I think Mr. Turner is coming up shortly after me, so you may end up forgetting what I have to say anyway.

But, first of all, it's been fascinating to watch the last couple of weeks. You know, when we stood up here and passed **HB 1** the first time, I said "this is your school finance vote, members. Don't get on my back when I lay out a plan based on these numbers, because this is your vote." And it's been fascinating watching the last few weeks as we've had these battling plans with my plan, or plans, or dozens of plans, or Mr. Eissler's first runs, or Mr. Eissler's second runs, and the senate's runs, the leadership's runs—and everybody running around with these runs saying, "Hey, Hochberg, this is unacceptable to my school district. Look, this other school district is losing less. This is unacceptable because the other school district's losing less." Well, if it's unacceptable for your school district, it should be unacceptable for the other school district and for every school district in here, and the only way you fix that, other than me taking from yours and you taking from me, is to put more in. And so, when you look at those school finance runs tonight, or tomorrow, or whenever, and you see that Mr. Smith's district may be losing more than Mr. Quintanilla's district, it's not just unacceptable to Mr. Smith's district, that we should take it from Mr. Quintanilla and give it to Mr. Smith. The reason is, if it's unacceptable, it's unacceptable because there's not enough money in the deal. And that could have been fixed pretty simply, logistically, because we're now to the point where the deficit in school funding is far less than the amount of money that is in the rainy day fund and that we anticipate to be in the rainy day fund. I'm convinced that those numbers are unacceptable to many of us, republican and democrat, and that's one reason for me not to vote for that aggregate number and not to vote for this budget.

But I think the bigger reason for me not to vote for it is that I fear that my friend Mr. Otto is correct. John has said many times we shouldn't use much more of the rainy day fund, or any more of the rainy day fund because we're going to come back and have a worse problem. I think he's right. I'm convinced he's right, because we can't even get back to this funding level without more revenue. We're at this funding level because we have used every trick in the book. If anyone has another one out there that we didn't use, bring it forward now. I think there are some people who would like to add it in on some conference report somewhere. I'm sure we could find a place for it. But we've practically used every trick in the book, and you can't use those tricks twice. So next time, let's just stay where we are. We're going to have to find new revenue to replace those tricks. Look at schools. Jimmie Don, you and I know that one of the first things we said was we could hold that August payment off to September. We've done that before, schools are pretty much okay with it, they get it, it is worth \$2 billion. We can't do it the next time, because it's already been deferred. So to just get

back where we are, we've got to find \$2 billion more just to pay for that trick. Oh, and by the way, somehow in the budget, Mr. Pitts, ya'll managed to call it \$2.3 billion, so the Foundation School Program is really short another \$300 million, because the 2.3 isn't the right number to use for that deferral. But, whether it's 2 or 2.3, it isn't going to be there next time.

Since we all seem to agree on that, republicans and democrats, what I'm disappointed about and what I can't figure out is why we've done nothing about that. Not a thing. We see the train coming, we're standing on the tracks. We're not telling anybody to slow down, we're not getting off the tracks. We're just, well, here it's coming, better save the rainy day fund, and we'll come back here next time with exactly the same problem only the money will be bigger and the tricks will be gone. And then—then what do we do? The fact that we haven't done anything convinces me that this is not a one-time budget cut—that it is the desire of this legislature to keep cutting and to keep going down further. If you want to see unacceptable school runs, they're going to start looking like the ones we looked at at the beginning of this when we were down 9.8.

This is a rich and wonderful state. It's a state that I love, it's the state of my birth. My parents took me away from this state for a number of years when I was a kid, but for the last 40 years I've been back here, and I came back and stayed back because this was a place where we could do anything. Texas was the biggest, then we learned about Sarah Palin and she had another state, but they're too far away. They're up there near Russia; we're still the biggest, as far as I'm concerned. We're the biggest, and we're the best, and we were the greatest, and we set our goals high. We reached for the stars, literally and figuratively. We built, with tax dollars, great institutions of higher education. We built, in the district I used to represent, the greatest cancer center perhaps in the world. I like to think it's number one. I have a hat in my office signed by two Nobel prize winners at a university that is, admittedly, a private university, but it still receives huge amounts of federal and state money for research and works with the Texas Medical Center that has huge amounts of state and federal money for research because we set those goals high. We said, it's not good enough to be like every other state, we need to be better. If we give up that quest, we might as well take our name off the license plates, because we'll be just like everybody else. That's not why I came back here. It's not what I wanted to build here. We can do better, we must do better, and we must do better soon.

REPRESENTATIVE MARTINEZ: Members, we're in a state of emergency. A state of emergency that we had to pass a voter ID bill without proving voter impersonation. A state of emergency that we had to pass a sonogram bill that is an intrusion of government. A state of emergency that we had to pass a sanctuary city bill that not one person could define or even tell us where one was located. But what about the true emergency? What about our children? What about education, our seniors? What about our health care and the jobs that will be lost?

This bill betrays the trust of the people of Texas. Knowing that we have billions and billions of dollars left in our state savings account, but failing to utilize it for the betterment of Texas—and all of us knowing that we're ranked 44th in education, and having one of the most uninsured populations. Not living within our means gives away our future, members.

Some things haven't changed since 2003. The legislature starts with the easiest targets first. By not showing we can afford to care for our children, they are yet again the biggest losers in this budget. But, members, what we can't afford is a budget that does not provide our children with a future.

REPRESENTATIVE LYNE: Members, I hadn't planned on speaking when I got up this morning to do this. I wasn't sure how I was going to vote on the budget when I got up this morning. I'm going to speak for this budget because it is what the people of my district sent me here to do. Everywhere I went people said, cut the budget, cut the budget, cut the budget. And I preach from this book that all of us have seen, the fact book of Texas, but I'm not sure they know that Texas wasn't Washington, D.C. We don't spend money like Washington, D.C. That we are—I mean you look at the ranks, we don't spend a whole lot on a lot of things. Half of our budget is federal funds. And we want them to cut federal funds. We have to be—as I tell people at home, we are responsible for us. We have to take the time to get involved.

Wichita Falls is a great place to live and that whole country out there is a great place to live because people are engaged. We have people who give generously. We talk about spending down here. We're not spending enough; we're spending too much. We're taxed too much; we're not taxed enough. I can tell you this: there is never enough. Never. There will be need if we spent every dollar in this state. I told my community when I was mayor, we can hire a police officer for every person in this city, and there will still be crime. We have to be responsible. We have to be engaged.

Every generation has cultural shifts. We're in one of those now. We have a lot of single parents, a lot of single mothers especially, young. They need help. It's easy for me to say, there's help out there, they need to go get it. My wife and I argue about this sometimes. We need to educate. We have problems that currently exist that we have to take care of, but we have to say also we have to start somewhere.

I don't know much about how everything works down here. I've been in politics most of my life, around it. I've seen it. I've been in D.C., I've been here, I've been in communities. In all politics, all government has some really weird stuff that goes on in it. And we heard a lot of those stories today. We have an education system that I flat out—that I've looked at the funding deal; I've been through it at least a dozen times. I couldn't tell anybody at home how we figured out how much money they get. And I guarantee you they can't look and find out how much money they get. Now I figured out the numbers a little while ago based on the numbers coming out, how much we're going to spend, how many students—4.9 million students, three billion something, 30 billion something. That's \$7,500 a student. Yet we give from \$3,000 to \$13,000 per student depending on where they live. And so we can't just divide it up and give money

out. It's not how it works. There's special needs here and special needs there, and rural is different than urban. Urban poor is different than this. We can argue all about that, but I guarantee you that when you get down to it, that equal funding works a heck of a lot better all the way across.

Who do we tax? There's not enough taxes. There's not enough people paying taxes. I was told by one of my university professors, "You're not taxing business enough. We're letting business get off scott free in the State of Texas." Then I got down here and I listened to Sitara and other people. Shoot, businesses are paying more than their fair share, but half of the businesses aren't paying. We think we're overtaxed because we write that property tax check every year. We see it. It's big. If we wrote a check for everything we pay to the federal government, we would go nuts. But we don't see that, it's taken out.

I've heard all my life, don't cut mine. Every program, and we've got hundreds of them—the federal government's got thousands. They're all incredibly important to somebody. So don't cut mine. Don't tax mine. Don't tax me, tax the man behind the tree. And this year I got to hear don't cut you, don't cut me, cut the guy behind the tree. I told the speaker and several other colleagues that I can cut a budget. That is not a problem. I've done it. I've had a lot businesses. I've had some great successes and I've had some failures. I hate letting people go. But when you put faces on those cuts, it makes a difference. And I've been fortunate in my life to work with a lot of nonprofit, a lot of poor, a lot of struggling, a lot of poor educated, and there will always be those folks. But we have to be responsible for us.

I suggest in the interim that a lot of you pick up this book and look at it. Talk to your neighbors. Because I came down here, as I said at the beginning, I did what the people sent me here to do from my district. But I guarantee you there are a lot of angry, unhappy people in my district because they didn't want us to cut theirs. But they didn't want their taxes raised either. It puts us in a weird dilemma, and we are elected to make those decisions. I'm as conservative as I can be, but I've got a big heart. We don't pass mental illness on down. It just goes to the county or the city, mainly to the jails, more than we cut the budget. And you're going to ask me it doesn't sound like you're speaking for this budget very well. This is the budget we have. This is what we knew coming in. This was what it was going to look like. It's looks a whole lot better than when we came in. But this is what we knew. This is what the people who voted for the majority of the people here want to see, but I promise you they don't know what gets spent in our Texas Legislature and how it is spent. That's our responsibility to teach what that is. It's easy to say cut government spending, cut the waste, cut the fat, cut the—show me where it is. Show me where it is.

I work in the energy business and I was talking to some people a little bit earlier. I can tell you as an operator, the Railroad Commission doesn't have enough people in the field to do their job. That's just a fact. But we don't want to increase the budget. There is never enough money. I have never met anybody yet who's said, hey, I'm overpaid and under-worked. Here's some money back. Anybody overpaid in here? Let me look up there and make sure. No, that just doesn't happen. We would all like more. Our communities are the future. That's

where the rubber is going to meet the road. We have to engage our communities regardless if it's 100 people or four or five million people. That's where the activity is going to take place because we're not going to have enough money. That's just the way it is. We're never going to have enough money.

Texas has been blessed to be given a huge natural resource, energy resources. And it has paid for universities, for schools, for students all along. One hundred years. We haven't had to pay because those resources were there and were taxed to fund those things. We've gotten off cheap, folks, because we had an industry, a mineral industry, that created a huge amount of revenue. Our whole rainy day fund is based on that. What other business do we tax that flows into the rainy day fund? None. We have to get behind this budget because this is what it is today. But we have to look in the interim at who we tax, how we tax. And the one discussion I noticed we never have, collectively, how much do we need to spend on education? What does it cost to educate a student? What does it cost to take care of health care? What does it cost to take care of criminal justice? Do we want a lot of nonviolent offenders stuck in jail or do they need rehab? We talk individually about these things in our committees, but as a whole, do we share what that is? We have to have the conversation. We have to make that decision. I've seen schools that cost \$20-, \$30 thousand a year, high schools. Kids got educated really well. They're smart. I've seen schools that don't pay hardly anything and they get educated well sometimes. I don't know how much is enough, but I am tired of hearing it's not enough. But you won't tell me what enough is.

REPRESENTATIVE TURNER: Thank you Mr. Speaker, and members, and I will tell you tonight I will be brief, only because I want to reserve my comments for tomorrow when we deal with 1811. Mr. Speaker, you appointed me to the conference committee. I've enjoyed working with all four members of the conference committee. You appointed me to the conference committee—the only democrat on the committee. And I've had an excellent time working with all four—with the other four. Let me just tell you, members, this is my third term in the Texas House. Just checking to see if you were listening. Give or take a few. My third term give or take a few. Mr. Speaker, I do want to report on the conference committee. As you know, I was very critical of the budget at the beginning. Went on the conference committee, and I believe I did my best to represent the house. I put on my lawyers cap in representing the house, my lawyers cap, with the house being my client, and at the same time with the goal of trying to make the product better than when it left the house the first time around. With regards to the budget itself in the conference committee report I want you to know when it comes to Article I, General Government, Article IV on the judiciary, Article V on public safety, Article VI on natural resources, Article VII dealing with business and economic development, Article IX on general provisions, and X with the legislature, I voted yes on all of those articles with reference to the conference committee report. With respect to Article II on Health and Human Services, and Article III on education and Article VIII when it deals with regulatory services I voted no with respect to this budget.

And I just want to echo a few things that have already been said. I don't believe this is the final budget, and I don't believe that the numbers we are seeing today are going to remain etched in stone. Last time, when the budget was passed from this house, over the interim, we had, like Representative Coleman indicated, we had some reduction. The leadership asked for a five percent reduction initially, then a 2.5 reduction because of budgetary shortfalls. I believe, I believe that because this budget, in large part, is based on deferrals, based on some speedups, and based on deficit spending that this is not the real budget. In Article II, Health and Human Services, yes we are keeping the nursing homes open. We all recognize that's a big deal. But with respect to what we are leaving behind on Medicaid funding, and Dr. Zerwas will tell you, come May 2013 this budget in Article II will run out of money. In May of 2013, providers in all the hospitals will not be paid. And what we have done members, and I want you to understand what we have done, because this is a conservative state, and this is a conservative house, and there are 101 republicans and 49 democrats. What we have done in Article II is that we have placed \$4.8 billion on what I call the Medicaid Mastercard, \$4.8 billion. Which means the State of Texas is obligated to pay it. You will pay it. You'll pay it in one form or another. The State of Texas will either pay it through the rainy day fund, or what will happen over the interim when we leave here is that the leadership will instruct the agencies to start cutting back on their budgets over the next two years. Recognizing that this budget, **HB 1**, in Article II alone, in Article II alone, is carrying forward \$4.8 billion that you are placing on the Medicaid Mastercard. For all people who are conservatives, and for all people who talk about deficit spending, and for everyone in this session, this year, to criticize Washington, D.C., you are implementing what folks are talking about across this country with regards to deficit spending. \$4.8 billion, and no one, not the conferees, not LBB, not the senate, no one will disagree with it. And I'm going to leave it alone. That's on Article II.

In Article III on education, on education there are over 4.5 million kids in our schools, 4.5 million, and the current law—we've established a Foundation School Program on formulas. We are intentionally, intentionally under funding the Foundation School Program by \$4 billion. Factually, no one is questioning the math. No one, LBB, the conferees, the senate, no one will question the fact. And the reason I'm going to reserve most of my comments until tomorrow, because tonight, if you should vote for this budget, tomorrow night you will have to implement your own cuts, and you will sign your name when you vote up here. Sending a reduced check to every one of your school districts. Every one, because you are giving them a haircut of \$4 billion, \$4 billion. When you combine what's happening in Article II, combine what's happening in Article III, \$4.8 billion on the credit card, \$4 billion in Article III on education sending them out to your local school districts, and tomorrow in **HB 1811**, because of what you're going to do in **HB 1** you must pass **HB 1811**. You must reduce what you are going to give to your local school districts in rural Texas, suburban, urban Texas, and you will have to sign your name to it, because that's what you are about to do in **HB 1**. And for my friends in rural Texas, when you vote on **HB 1**,

and you vote tomorrow on **HB 1811** you are taking another step forward in going to the consolidation of your schools, because eventually the money will not be there. We are moving in that direction. I simply raise that tonight this is a serious matter. And really, I don't have any tears for you tonight on this one. I am all teared out. And the reality is we all know what we are doing. We all know that. I've heard people talk about no to deferrals. There were \$2 billion in deferrals in this bill. You're going to vote for it. No to deficit spending—\$4.8 billion. And really the agency says that number is closer to \$5 billion or more. Health and Human Services, a Medicaid waiver. Representative Kolkhorst, \$700 million this budget on. LBB says you didn't get it from President Bush, you think you're going to get it from President Obama? Seven hundred million dollars, don't count on it. This budget is shaky at its best, it's shaky at its best. And for all of my conservative friends. No taxes, true. No rainy day fund, true. But deferrals, deficit spending, some speed ups, and funding that's questionable all exist.

I have never come to the session believing that you could not change peoples' votes on this floor. I'm one of those eternal optimists. The moment I conclude that people cannot change their votes, and that the outcome will just be the outcome is the moment I simply take my seat and say nothing. I simply don't believe that. And my faith doesn't tell me to believe that. Philippians 4 certainly doesn't say that. And I do believe truth will set us free at some point. I do believe that. And at some point I simply pray that this house, and individual members, will have the courage of their convictions, and to say publicly what they have said to me privately. It might not happen tonight. It might not happen tonight. But, eventually I am convinced that your votes will catch up to you. I am convinced. Tonight may not be the night, but tomorrow you will sign your name to the check you give to your district.

REPRESENTATIVE PITTS: Thank you Mr. Speaker, members. I ask for your support in adopting the conference committee report on **HB 1**.

#### REMARKS ORDERED PRINTED

Representative Vo moved to print all closing remarks on **HB 1**.

The motion prevailed.

Representative Pitts moved to adopt the conference committee report on **HB 1**.

The motion to adopt the conference committee report on **HB 1** prevailed by (Record 1664): 97 Yeas, 53 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; 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; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hartnett; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle.

The speaker stated that **HB 1** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

### 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).

### HB 2847 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Madden called up with senate amendments for consideration at this time,

**HB 2847**, A bill to be entitled An Act relating to the use of video teleconferencing systems in certain criminal proceedings.

Representative Madden moved to discharge the conferees and concur in the senate amendments to **HB 2847**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2847** prevailed by (Record 1665): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Lyne; Martinez Fischer.

### STATEMENT OF VOTE

When Record No. 1665 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

#### Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2847** (house engrossment) as follows:

(1) On page 3, lines 20-21, strike "Subsections (c-1) and (c-2)" and substitute "Subsection (c-1)".

(2) Strike the language beginning on page 3, line 22, and ending on page 4, line 3, and substitute the following:

(c) A record [~~recording~~] of the communication shall be made by a court reporter and preserved by the court reporter until all appellate proceedings have been disposed of. The defendant may obtain a copy of the record [~~recording~~] on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

(3) On page 4, line 4, strike "(c-2)" and substitute "(c-1)".

(4) On page 4, lines 4-5, strike "video recording" and substitute "record".

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

SECTION \_\_\_\_\_. Article 102.017(d-1), Code of Criminal Procedure, is amended to read as follows:

(d-1) For purposes of this article, the term "security personnel, services, and items" includes:

- (1) the purchase or repair of X-ray machines and conveying systems;
- (2) handheld metal detectors;
- (3) walkthrough metal detectors;
- (4) identification cards and systems;
- (5) electronic locking and surveillance equipment;
- (6) video conferencing systems;
- (7) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (8) [~~(7)~~] signage;
- (9) [~~(8)~~] confiscated weapon inventory and tracking systems;
- (10) [~~(9)~~] locks, chains, alarms, or similar security devices;
- (11) [~~(10)~~] the purchase or repair of bullet-proof glass; and
- (12) [~~(11)~~] continuing education on security issues for court personnel and security personnel.

**HB 90 - HOUSE DISCHARGES CONFEREES  
HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Cook called up with senate amendments for consideration at this time,

**HB 90**, A bill to be entitled An Act relating to eligibility to obtain a driver's license.

Representative Cook moved to discharge the conferees and concur in the senate amendments to **HB 90**.

The motion to discharge the conferees and concur in the senate amendments to **HB 90** prevailed by (Record 1666): 146 Yeas, 2 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Morrison; Walle.

Present, not voting — Mr. Speaker(C).

Absent — Madden.

**STATEMENT OF VOTE**

I was shown voting yes on Record No. 1666. I intended to vote no.

White

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 90** (senate committee printing) as follows:

(1) Strike SECTIONS 2, 3, and 4 of the bill, amending Sections 521.201 and 521.223, Transportation Code, and adding Section 521.207, Transportation Code (page 1, line 12, through page 2, line 49), and substitute the following:

SECTION \_\_\_\_\_. Section 521.223(f), Transportation Code, is amended to read as follows:

(f) In the manner provided by Subchapter N, the department shall ~~[may]~~ suspend a license issued under this section if the holder of the license is convicted of two or more ~~[a]~~ moving violations committed within a 12-month period ~~[violation]~~.

(2) Strike SECTION 6 of the bill (page 2, lines 52-57).

(3) Renumber SECTIONS of the bill accordingly.

**HB 1000 - HOUSE DISCHARGES CONFEREES  
HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Branch called up with senate amendments for consideration at this time,

**HB 1000**, A bill to be entitled An Act relating to the distribution of money appropriated from the national research university fund and to one or more audits of certain general academic teaching institutions in connection with that distribution; making an appropriation.

Representative Branch moved to discharge the conferees and concur in the senate amendments to **HB 1000**.

The motion to discharge the conferees and concur in the senate amendments to **HB 1000** prevailed by (Record 1667): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Murphy.

The speaker stated that **HB 1000** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

### Senate Committee Substitute

**CSHB 1000**, A bill to be entitled An Act relating to the distribution of money appropriated from the national research university fund; making an appropriation.

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

SECTION 1. Section 62.145(a), Education Code, is amended to read as follows:

(a) A general academic teaching institution becomes ~~is~~ eligible to receive an initial ~~[a]~~ distribution of money appropriated under this subchapter for a state fiscal ~~[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 year for which the appropriation is made ~~[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 in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made;

(B) the institution awarded at least 200 doctor of philosophy degrees during each of the two academic years preceding the state fiscal year for which the appropriation is made ~~[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) for each of those two academic years, the institution has demonstrated a commitment to high-quality graduate education, as determined according to standards prescribed by the coordinating board by rule, including standards relating to 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.

SECTION 2. Section 62.146, Education Code, is amended to read as follows:

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:

(1) the eligibility of institutions under Section 62.145; and

(2) the amount of restricted research funds expended by an eligible institution in a state fiscal year.

(b) As soon as practicable in each state fiscal [~~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 comptroller and 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.

(c) Information submitted to the coordinating board by institutions for purposes of establishing eligibility under this subchapter and the coordinating board's certification or verification of that information under this section [~~subsection~~] are subject to a mandatory audit by the state auditor in accordance with Chapter 321, Government Code. The coordinating board may also request one or more audits by the state auditor as necessary or appropriate at any time after an eligible institution begins receiving distributions under this subchapter. Each audit must be based on an examination of all or a representative sample of the restricted research funds awarded to the institution and the institution's expenditures of those funds, and must include, among other elements:

(1) verification of the amount of restricted research funds expended by the institution in the appropriate state fiscal year or years; and

(2) verification of compliance by the institution and the coordinating board with the standard methods of accounting and standard methods of reporting prescribed by the coordinating board under Subsection (a), including verification of:

(A) the institution's compliance with the coordinating board's standards and accounting methods for reporting expenditures of restricted research funds; and

(B) whether the institution's expenditures meet the coordinating board's definition of restricted research expenditures.

(d) From money appropriated from the fund, the comptroller shall reimburse the state auditor for the expenses of any audits conducted under Subsection (c).

SECTION 3. Section 62.148, Education Code, is amended to read as follows:

Sec. 62.148. DISTRIBUTION [~~ALLOCATION~~] OF APPROPRIATED FUNDS TO ELIGIBLE INSTITUTIONS. (a) In each state fiscal year, the comptroller shall distribute to eligible institutions in accordance with this section money [~~the total amount~~] appropriated from the fund for that fiscal year.

(b) The total amount appropriated from the fund for any state fiscal year may not exceed an amount equal to 4.5 percent of the average net market value of the investment assets of the fund for the 12 consecutive state fiscal quarters ending with the last quarter of the preceding state fiscal year, as determined by the comptroller.

(b-1) For purposes of Subsection (b), for a state fiscal quarter that includes any period before the fund was established on January 1, 2010, a reference to the average net market value of the investment assets of the fund includes the average net market value of the investment assets of the former higher education fund for the applicable state fiscal quarter. This subsection expires January 1, 2014.

(c) Subject to Subsection (e), of the total amount appropriated from the fund for distribution in a state fiscal year, each eligible institution is entitled to a distribution in an amount equal to the sum of:

- (1) one-seventh of the total amount appropriated; and
- (2) an equal share of any amount remaining after distributions are calculated under Subdivision (1), not to exceed an amount equal to one-fourth of that remaining amount.

(d) The comptroller shall retain within the fund any portion of the total amount appropriated from the fund for distribution that remains after all distributions are made for a state fiscal year as prescribed by Subsection (c). The appropriation of that retained amount lapses at the end of that state fiscal year.

(e) If the number of institutions that are eligible for distributions in a state fiscal year is more than four, each eligible institution is entitled to an equal share of the total amount appropriated from the fund for distribution in that fiscal year.

(f) For purposes of this section, the total amount appropriated from the fund for distribution in a state fiscal year does not include any portion of the amount appropriated that is used to reimburse the costs of an audit conducted under Section 62.146(c) [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].

SECTION 4. For each fiscal year of the state fiscal biennium ending August 31, 2013, the maximum amount permitted by Section 20, Article VII, Texas Constitution, and by Section 62.148(b), Education Code, as added by this Act, is appropriated to the comptroller from the national research university fund for distribution to eligible state universities in accordance with and for the purposes described by Subchapter G, Chapter 62, Education Code.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

**HB 2910 - HOUSE DISCHARGES CONFEREES  
HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Branch called up with senate amendments for consideration at this time,

**HB 2910**, A bill to be entitled An Act relating to agreements between the Texas Higher Education Coordinating Board and certain organizations for increasing degree completion rates.

Representative Branch moved to discharge the conferees and concur in the senate amendments to **HB 2910**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2910** prevailed by (Record 1668): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Lyne.

**Senate Committee Substitute**

**CSHB 2910**, A bill to be entitled An Act relating to agreements between the Texas Higher Education Coordinating Board and certain organizations for increasing degree completion rates.

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

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0905 to read as follows:

Sec. 61.0905. AGREEMENTS AND GRANTS TO INCREASE DEGREE COMPLETION RATES. (a) The board may, in partnership with institutions of higher education, enter into an agreement with nonprofit organizations to assist the board in identifying and implementing effective methods for increasing degree completion rates at institutions of higher education, including by:

(1) identifying and promoting innovative models, emerging technology platforms, and best practices for increasing degree completion rates in areas including:

(A) developmental education;

(B) financial assistance;

(C) student support services; and

(D) transfer or articulation agreements;

(2) providing data, research, and evaluation support to assist the board in assessing the effectiveness of pilot programs in increasing degree completion rates;

(3) coordinating ongoing local, state, federal, and philanthropic initiatives to increase degree completion rates; and

(4) determining the extent of implementation of degree completion rate improvement models across a region or the state and the effectiveness of the models as student population increases.

(b) The board by rule may establish a grant program to fund projects, including the award of a grant to a nonprofit organization that enters into an agreement with the board under this section, related to the improvement of degree completion rates. If the board establishes a grant program under this section, the board by rule shall prescribe the application procedure and criteria for awarding a grant.

(c) Grants awarded by the board under this section may be funded by:

(1) appropriations; and

(2) gifts, grants, or other donations.

(d) Not later than January 1, 2012, the board shall report to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency a description of:

(1) the types of nonprofit organizations eligible for a grant under this section;

(2) grants awarded under this section; and

(3) a survey of partnerships between other states and nonprofit organizations to increase degree completion rates, including identification of best practices.

(e) This section expires September 1, 2013.

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, 2011.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 2910** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. Chapter 61, Education Code, is amended by adding Subchapter GG to read as follows:

SUBCHAPTER GG. TEXAS SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (T-STEM) CHALLENGE SCHOLARSHIP PROGRAM

Sec. 61.9791. DEFINITION. In this subchapter, "STEM program" means a Science, Technology, Engineering, and Mathematics program.

Sec. 61.9792. SCHOLARSHIP PROGRAM. The board shall establish and administer, in accordance with this subchapter and board rules, the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program under which the board provides a scholarship to a student who meets the eligibility criteria prescribed by Section 61.9793.

Sec. 61.9793. ELIGIBLE STUDENT. (a) To receive an initial scholarship under this subchapter, a student must:

(1) graduate from high school with a grade point average of at least 3.0 on a four-point scale in mathematics and science courses;

(2) enroll in a STEM program at an eligible institution; and

(3) agree to work no more than 15 hours a week for a business participating in the STEM program.

(b) To continue to qualify for a scholarship under this subchapter, a student must:

(1) remain enrolled in a STEM program at an eligible institution;

(2) maintain an overall grade point average of at least 3.0 on a four-point scale;

(3) complete at least 80 percent of all semester credit hours attempted for each semester;

(4) complete at least 30 semester credit hours per academic year; and

(5) work no more than 15 hours a week for a business participating in the STEM program.

Sec. 61.9794. ELIGIBLE INSTITUTION. (a) To qualify as an eligible institution under this subchapter, an institution must:

(1) be a public junior college or public technical institute;

(2) admit at least 50 students into a STEM program each academic year; and

(3) develop partnerships with business and industry to:

(A) identify local employment needs in Science, Technology, Engineering, and Mathematics (STEM) fields; and

(B) provide part-time employment for students enrolled in a STEM program.

(b) To maintain eligibility, beginning with the second year following implementation of a scholarship program under this subchapter, an institution must demonstrate to the board that at least 70 percent of the institution's T-STEM Challenge Scholarship graduates, within three months after graduation, are:

(1) employed by a business in a Science, Technology, Engineering, and Mathematics (STEM) field; or

(2) enrolled in upper-division courses leading to a baccalaureate degree in a Science, Technology, Engineering, and Mathematics (STEM) field.

Sec. 61.9795. AMOUNT; FUNDING. (a) Subject to available funding, the board shall award scholarships, with at least 50 percent of the amount awarded from private funds.

(b) An eligible student may receive a scholarship awarded under this subchapter for not more than two academic years.

(c) The board may use any available revenue, including legislative appropriations, and may solicit and accept gifts and grants for purposes of this subchapter.

SECTION \_\_\_\_\_. The Texas Higher Education Coordinating Board shall award scholarships under Subchapter GG, Chapter 61, Education Code, as added by this Act, beginning with the 2011-2012 academic year. The coordinating board shall adopt the rules required by that subchapter as soon as practicable after this Act takes effect.

**HCR 176 - ADOPTED**  
**(by Isaac)**

The following privileged resolution was laid before the house:

**HCR 176**

WHEREAS, **HB 1517** has been adopted by the house of representatives and the senate; 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, That the enrolling clerk of the house of representatives be instructed to make the following correction:

In SECTION 1 of the bill, in amended Section 542.402(e), Transportation Code, between "municipality" and "shall", insert "or county".

**HCR 176** was adopted by (Record 1669): 149 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; 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.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

### **RESOLUTIONS ADOPTED**

Representative Isaac moved to suspend all necessary rules to take up and consider at this time **HR 2290**, **HR 2355**, **HR 2395**, and **HR 2600**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 2290** (by Lewis), In memory of U.S. Army Sergeant John Paul Castro.

**HR 2355** (by Strama), In memory of U.S. Army Sergeant Mario Rodriguez, Jr.

**HR 2395** (by Eissler), In memory of U.S. Air Force Captain Nathan J. Nylander of Hockley.

**HR 2600** (by Martinez), In memory of U.S. Army Sergeant Fernando De La Rosa.

The resolutions were unanimously adopted by a rising vote.

### **HCR 168 - ADOPTED (by S. Miller)**

Representative S. Miller moved to suspend all necessary rules to take up and consider at this time **HCR 168**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 168**, Honoring John Cowan on the occasion of his retirement from the Texas Association of Dairymen.

**HCR 168** was adopted.

(Phillips in the chair)

### **ADJOURNMENT**

Representative Kleinschmidt moved that the house adjourn until 1 p.m. tomorrow.

The motion prevailed.

The house accordingly, at 8:30 p.m., adjourned until 1 p.m. tomorrow.

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**ADDENDUM**

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**SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 40**

**HB 1046, HB 1071, HB 1080, HB 1113, HB 1528, HB 1568, HB 1622, HB 1756, HB 1757, HB 1758, HB 1797, HB 1822, HB 1844, HB 2047, HB 2096, HB 2104, HB 2193, HB 2238, HB 2469, HB 2784, HB 2819, HB 2972, HB 3085, HB 3161, HB 3324, HB 3421, HB 3422, HCR 115, HCR 165**

**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

Saturday, May 28, 2011

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 CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

**SB 81** (31 Yeas, 0 Nays)

**SB 223** (31 Yeas, 0 Nays)

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 362**

Senate Conferees: West - Chair/Gallegos/Nichols/Patrick/Wentworth

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 200** (31 Yeas, 0 Nays)

**HB 1112** (31 Yeas, 0 Nays)

<b>HB 1335</b>	(30 Yeas, 1 Nay)
<b>HB 1732</b>	(31 Yeas, 0 Nays)
<b>HB 2560</b>	(23 Yeas, 8 Nays)
<b>HB 2694</b>	(31 Yeas, 0 Nays)
<b>HB 2729</b>	(31 Yeas, 0 Nays)
<b>HB 3577</b>	(31 Yeas, 0 Nays)
<b>SB 144</b>	(31 Yeas, 0 Nays)
<b>SB 249</b>	(31 Yeas, 0 Nays)
<b>SB 263</b>	(31 Yeas, 0 Nays)
<b>SB 313</b>	(31 Yeas, 0 Nays)
<b>SB 377</b>	(31 Yeas, 0 Nays)
<b>SB 602</b>	(31 Yeas, 0 Nays)
<b>SB 647</b>	(31 Yeas, 0 Nays)
<b>SB 1489</b>	(31 Yeas, 0 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Saturday, May 28, 2011 - 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 GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 242**

Senate Conferees: Hegar - Chair/Harris/Ogden/Whitmire/Williams

**HB 2327**

Senate Conferees: Wentworth - Chair/Eltife/Harris/Nichols/Rodriguez

**HB 3459**

Senate Conferees: Whitmire - Chair/Carona/Hegar/Hinojosa/Ogden

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 1951** (31 Yeas, 0 Nays)

**HB 2048** (31 Yeas, 0 Nays)

**SB 156** (31 Yeas, 0 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Saturday, May 28, 2011 - 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 1178** (31 Yeas, 0 Nays)

**HB 1286** (30 Yeas, 1 Nay)

**HB 2499** (31 Yeas, 0 Nays)

**HB 2734** (30 Yeas, 1 Nay)

**SB 158** (31 Yeas, 0 Nays)

**SB 747** (31 Yeas, 0 Nays)

**SB 958** (30 Yeas, 1 Nay)

**SB 1331** (31 Yeas, 0 Nays)

**SB 1338** (31 Yeas, 0 Nays)

**SB 1420** (31 Yeas, 0 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 4**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Saturday, May 28, 2011 - 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 GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 3328**

Senate Conferees: Fraser - Chair/Eltife/Hegar/Hinojosa/Nelson

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

<b>HB 628</b>	(31 Yeas, 0 Nays)
<b>HB 871</b>	(29 Yeas, 2 Nays)
<b>HB 1517</b>	(31 Yeas, 0 Nays)
<b>HB 1711</b>	(31 Yeas, 0 Nays)
<b>SB 652</b>	(31 Yeas, 0 Nays)
<b>SB 773</b>	(27 Yeas, 4 Nays)
<b>SB 1134</b>	(26 Yeas, 5 Nays)
<b>SB 1816</b>	(31 Yeas, 0 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 5**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Saturday, May 28, 2011 - 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:

<b>HB 1</b>	(20 Yeas, 11 Nays)
<b>SB 341</b>	(30 Yeas, 1 Nay)
<b>SB 563</b>	(31 Yeas, 0 Nays)
<b>SB 875</b>	(23 Yeas, 8 Nays)

**SB 1087** (28 Yeas, 3 Nays)

**SB 1534** (29 Yeas, 2 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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## APPENDIX

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### ENROLLED

May 27 - HB 14, HB 25, HB 42, HB 78, HB 174, HB 274, HB 275, HB 289, HB 359, HB 360, HB 398, HB 559, HB 788, HB 805, HB 1009, HB 1046, HB 1071, HB 1080, HB 1083, HB 1113, HB 1205, HB 1247, HB 1293, HB 1301, HB 1314, HB 1330, HB 1402, HB 1429, HB 1473, HB 1476, HB 1500, HB 1528, HB 1568, HB 1622, HB 1651, HB 1690, HB 1721, HB 1737, HB 1750, HB 1756, HB 1757, HB 1758, HB 1784, HB 1822, HB 1823, HB 1844, HB 1856, HB 1887, HB 1891, HB 1897, HB 1930, HB 1967, HB 1969, HB 1981, HB 1994, HB 2047, HB 2096, HB 2104, HB 2119, HB 2136, HB 2138, HB 2141, HB 2193, HB 2220, HB 2238, HB 2247, HB 2256, HB 2266, HB 2296, HB 2310, HB 2315, HB 2330, HB 2346, HB 2363, HB 2396, HB 2492, HB 2496, HB 2541, HB 2575, HB 2577, HB 2584, HB 2636, HB 2651, HB 2678, HB 2722, HB 2819, HB 2869, HB 2960, HB 2966, HB 2972, HB 2996, HB 2997, HB 3030, HB 3076, HB 3085, HB 3096, HB 3216, HB 3324, HB 3421, HB 3422, HB 3474, HB 3475, HB 3580, HB 3597, HB 3674, HB 3724, HB 3730, HB 3746, HB 3813, HB 3831, HB 3834, HCR 142, HCR 162

### SENT TO THE GOVERNOR

May 27 - HB 14, HB 25, HB 42, HB 78, HB 149, HB 174, HB 254, HB 274, HB 275, HB 289, HB 336, HB 338, HB 343, HB 359, HB 360, HB 364, HB 371, HB 384, HB 398, HB 412, HB 427, HB 447, HB 452, HB 528, HB 534, HB 554, HB 559, HB 577, HB 588, HB 645, HB 654, HB 673, HB 692, HB 709, HB 710, HB 718, HB 737, HB 748, HB 782, HB 787, HB 788, HB 790, HB 805, HB 807, HB 844, HB 850, HB 890, HB 896, HB 943, HB 961, HB 963, HB 990, HB 1009, HB 1033, HB 1048, HB 1060, HB 1070, HB 1083, HB 1116, HB 1118, HB 1129, HB 1144, HB 1148, HB 1163, HB 1205, HB 1226, HB 1235, HB 1247, HB 1274, HB 1293, HB 1301, HB 1305, HB 1314, HB 1315, HB 1330, HB 1376, HB 1402, HB 1429, HB 1473, HB 1476, HB 1486, HB 1499, HB 1500, HB 1610, HB 1615, HB 1651, HB 1690, HB 1721, HB 1737, HB 1750, HB 1784, HB 1823, HB 1856, HB 1887, HB 1891, HB 1897, HB 1930, HB 1942, HB 1964, HB 1967, HB 1969, HB 1981, HB 1992, HB 1994,

HB 2038, HB 2098, HB 2119, HB 2120, HB 2124, HB 2133, HB 2136,  
HB 2138, HB 2141, HB 2160, HB 2170, HB 2195, HB 2220, HB 2223,  
HB 2247, HB 2256, HB 2266, HB 2280, HB 2292, HB 2296, HB 2310,  
HB 2315, HB 2325, HB 2330, HB 2338, HB 2346, HB 2359, HB 2363,  
HB 2396, HB 2425, HB 2460, HB 2472, HB 2492, HB 2496, HB 2541,  
HB 2575, HB 2577, HB 2584, HB 2604, HB 2619, HB 2632, HB 2636,  
HB 2651, HB 2678, HB 2722, HB 2725, HB 2769, HB 2792, HB 2869,  
HB 2872, HB 2960, HB 2966, HB 2994, HB 2996, HB 2997, HB 3003,  
HB 3030, HB 3076, HB 3079, HB 3093, HB 3096, HB 3125, HB 3134,  
HB 3145, HB 3167, HB 3182, HB 3197, HB 3208, HB 3216, HB 3270,  
HB 3311, HB 3336, HB 3369, HB 3384, HB 3399, HB 3404, HB 3410,  
HB 3423, HB 3439, HB 3462, HB 3474, HB 3475, HB 3578, HB 3580,  
HB 3597, HB 3674, HB 3724, HB 3727, HB 3730, HB 3746, HB 3788,  
HB 3796, HB 3813, HB 3823, HB 3829, HB 3831, HB 3834, HB 3836,  
HB 3837, HB 3840, HB 3842, HB 3843, HB 3844, HB 3856, HB 3862,  
HB 3864, HB 3866, HCR 24, HCR 86, HCR 129, HCR 130, HCR 142,  
HCR 153, HCR 162

**SENT TO THE COMPTROLLER**

May 27 - HB 275

**SENT TO THE SECRETARY OF THE STATE**

May 27 - HJR 109

**SIGNED BY THE GOVERNOR**

May 27 - HB 457, HB 564, HB 994, HB 1147, HB 1215, HB 1251,  
HB 1753, HB 2012, HB 2375, HB 2991, HB 3287, HCR 131, HCR 157